

ZONING*

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BILL NO. 5097

ORDINANCE NO. 5085

AN ORDINANCE TO PROVIDE COMPREHENSIVE ZONING REGULATIONS FOR THE HEALTH, SAFETY, MORALS AND THE GENERAL WELFARE OF THE INHABITANTS OF THE CITY OF KIRKWOOD, MISSOURI; TO REGULATE THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, COMMERCE, INDUSTRY, RESIDENCE AND OTHER PURPOSES; TO REGULATE AND RESTRICT THE ERECTION, CONSTRUCTION,

***Editor's note**—Appendix A contains the Zoning Ordinance of the city, being Ord. No. 5085, adopted February 24, 1967, as amended from time to time. Amendatory ordinances are cited in parentheses following the section amended, and repealed provisions have been deleted. The absence of a parenthetical citation indicates that the particular section is as enacted by Ord. No. 5085.

Cross references—Planning and zoning commission, §2-518 et seq.; architectural review board, §2-531 et seq.; community development advisory committee, §2-560 et seq.; buildings generally, Ch. 5; building commissioner to enforce zoning ordinance provisions, §5-1; sign code, §5-7 et seq.; fences, §5-36 et seq.; flood damage prevention, §5-69 et seq.; business redevelopment, Ch. 6; landmarks commission, Ch. 12½; trailers and trailer parks, Ch. 22; subdivisions, App. B; industrial development authority, App. D.

State law reference—Zoning and planning, RSMo §89.010, et seq.

APPENDIX A—ZONING

RECONSTRUCTION OR ALTERATION OF BUILDINGS OR STRUCTURES; TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES AND SIZE OF ALL BUILDINGS AND STRUCTURES AND THE SIZE OF YARDS AND OTHER OPEN SPACES SURROUNDING BUILDINGS OR STRUCTURES; TO PROVIDE FOR PARKING AND LOADING SPACES; TO REGULATE AND RESTRICT THE DENSITY OF POPULATION WITHIN THE CITY; AND FOR ALL OF SAID PURPOSES TO DIVIDE THE CITY INTO DISTRICTS; TO PROVIDE FOR CHANGES AND AMENDMENTS; TO PROVIDE FOR THE SEVERABILITY OF PROVISIONS; TO PROVIDE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE VARIOUS REGULATIONS AND RESTRICTIONS; TO PRESCRIBE PENALTIES AND REMEDIES FOR THE VIOLATION OF ITS PROVISIONS; TO PROVIDE FOR A BOARD OF ADJUSTMENT AND THE CONTINUATION OF THE EXISTING BOARD OF ADJUSTMENT AND FOR ITS POWERS, DUTIES, AND JURISDICTION; TO ADOPT AS A PART HEREOF A DISTRICT MAP; AND REPEALING ORDINANCE NUMBER 4517 AND ALL AMENDMENTS THERETO AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the Planning and Zoning Commission of the City of Kirkwood, Missouri did file on November 9, 1966 a preliminary report encompassing proposed comprehensive zoning regulations and a proposed District Map to implement the Master Plan of the City prepared in 1962, and

WHEREAS, on November 30, 1966 and December 6, 1966 after due and legal notice, the Planning and Zoning Commission did hold and conduct Public Hearings on its preliminary report, and

WHEREAS, thereafter the Planning and Zoning Commission did file with this Council its final report and recommendations, and

WHEREAS, this Council did on the 2nd day of February hold and conduct a Public Hearing after due and legal notice as to the said final report.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, as follows:

ARTICLE I. TITLE

Sec. A-1. Short title.

This ordinance, and ordinances supplemental or amendatory thereto, shall be known as and may be cited as "The Zoning Ordinance of Kirkwood, Missouri."

Sec. A-2. Reserved.

ARTICLE II. RULES AND DEFINITIONS

Sec. A-3.

In the construction and interpretation of this ordinance, the rules and definitions contained in this Article shall be observed and applied except when the context clearly indicates otherwise.

- (a) Rules for construction of language:

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- (1) *Rules applying to text of ordinance.* The following rules of construction apply to the text of this ordinance and supplements and amendments thereto.
 - a. The particular shall control the general.
 - b. In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
 - c. The word "shall" is mandatory and not discretionary. The word "may" is permissive.
 - d. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
 - e. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".

- (b) Definitions
 - (1) *Accessory Use or Structure:* A structure or use that (a) is subordinate to and serves a principal building or a principal use; (b) is subordinate in area, extent, and purpose to the principal structure; (c) contributes to the comfort, convenience, or necessity of the occupants, business, or industry of the principal structure or use served; and (d) is located on the same lot as the principal structure or use served. An accessory structure attached to a principal building in a substantial manner by a wall or roof shall be considered part of the principal building.
 - (2) *Alley:* A narrow serviceway providing a secondary public means of access to abutting properties.
 - (3) *Alterations:* As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another, or any change in use from that of one district classification to another.
 - (4) *Alterations, structural:* Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
 - (5) *Antenna:* Any device that transmits and/or receives electromagnetic signals for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of communications.
 - (6) *Antenna equipment cabinet:* 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

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dimensions that do not exceed four feet by six feet and vertical height that does not exceed six feet.

- (7) *Antenna equipment shelter:* 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 antenna is prohibited.
- (8) *Antenna support structure:* A tower or disguised support structure but excluding those support structures under fifty-five (55) feet in height owned and operated by an amateur radio operator licensed by the FCC.
- (9) *Apartment:* A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a single housekeeping unit, and which contains a complete kitchen, bath, and toilet facilities, permanently installed.
- (10) *Apartment house:* A building arranged, intended or designed for three (3) or more apartments.
- (11) *Area, building:* The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.
- (12) *Automobiles, antique and classic:* Automobiles over twenty-five (25) years old, and/or that are classified "classic" by the official Classic Car Club of America, which are owned solely as collector's items and intended to be used for exhibition and educational purposes.
- (13) *Automobile and other motor vehicle repair major:* Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and overall painting of vehicles.
- (14) *Automobile repair minor:* Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under "automobile and other motor vehicle repair, major."
- (15) *Bakery shop:* An establishment whose principal business is the sale of bakery goods in a ready-to-consume state. These products may be prepared on the premises but the establishment shall have no area for seating or consumption. These shops shall be exceptions to the definition of restaurant and are to be considered food stores.
- (16) *Balcony:* A platform enclosed by a parapet or a railing projecting from a wall or a building.

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- (17) *Basement:* A story partly underground but having at least one-half (1/2) of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes.
- (18) *Bed and breakfast establishment:* A one-family detached dwelling in which the operator resides and in which up to four (4) rooms are rented to no more than eight (8) overnight guests at any particular time. Rooms shall be rented on a daily basis and for no more than fourteen (14) consecutive days to any particular guests. Meals may be provided to overnight guests without compliance with regulations pertaining to restaurants. There shall be no exterior evidence of such establishment except a nonilluminated sign not exceeding two (2) square feet may be attached to the building. There shall be no accessory uses, structures or buildings other than those that are customarily incidental and subordinate to a one-family dwelling.
- (19) *Boardinghouse:* A building other than a hotel where for compensation and by prearrangement for definite periods, meals or lodging or both, are provided for three (3) or more persons, but not exceeding twenty (20) persons.
- (20) *Buildable lot.* The following tracts of land shall be considered a "buildable lot" as that term is used herein:
- a. A lot of record which satisfies the minimum width and size requirements of the current zoning laws.
 - b. A lot of record which was developed with a single family residential structure on or after February 24, 1967.
 - c. A legally created existing residential lot of record at least 40 feet wide and with a minimum area of 4,000 square feet shall permit the construction of one single-family dwelling. However, the construction shall conform to all regulations of the residential zoning district, such as yard areas, height, percentage of lot coverage, dwelling standards, off-street parking, and other applicable provisions.
- (21) *Building:* A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels, or property. When separated by party walls, each portion of such building shall be considered a separate structure.
- (22) *Building, front line of:* The line of that face of the building nearest the front line of the lot.
- (23) *Building, height (excluding R-1, R-2, R-3, and R-4 zoning districts):* The vertical distance measured from the average elevation of the proposed finished grade of the building to the highest point of the roof for flat roofs, to the deck line of

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mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

- (24) *Building, height (R-1, R-2, R-3, & R-4 zoning districts only):* The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the building. This measurement shall include flat, mansard, gable, hip and gambrel roofs, and all other architectural features of the building. The ordinary elevation of chimneys and flues may extend above the allowed building height, as regulated by the Building Code.
- (25) *Building lines:* The lines along the interior side of required front, rear and side yards.
- (26) *Camp:* Any one or more of the following, other than a hospital, place of detention or school offering general instruction.
- a. Type 1—Any area of land or water on which are located two (2) or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise; or
 - b. Type 2—Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes; and any of the foregoing establishments whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals, families or groups.
- (27) *Candy shop:* An establishment whose principal business is the sale of candy in a ready-to-consume state. These products may be prepared on the premises but the establishment shall have no area for seating or consumption. These shops shall be exceptions to the definition of restaurant and are to be considered food stores.
- (28) *Catering establishment:* An establishment whose sole business is the preparation and delivery of food for private parties, receptions, banquets, and similar functions whose attendance is in excess of fifteen (15) individuals; and no food is served or consumed on the premises.
- (29) *Cellar:* A story having more than one-half (1/2) of its height below grade. A cellar shall not be counted as a story for the purpose of height measurement or restriction.
- (30) *City:* The City of Kirkwood, Missouri.
- (31) *Commercial school:* A school supported primarily by student fees, which offers instruction in one or more specialized skills and which is not accessory to a permitted retail use.

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- (32) *Continuing Care Retirement Facility:* A building or complex of buildings that provides elderly housing, catered living, and/or assisted living dwelling units, skilled and intermediate care nursing units and accessory services for residents of the facility; and programs, outpatient care, and rehabilitation services provided by the facility to the general public.
- (33) *Convenience store:* A food store, as defined, having a gross area of five thousand (5,000) square feet or less. Motor fuel shall not be sold or dispensed on the premises and shall not be considered a secondary use to a convenience store. Convenience stores which dispense or sell motor fuel on the premises are defined as convenience/gas stores.
- (33a) *Convenience/gas store:* A food store, as defined, having a gross area of five thousand (5,000) square feet or less, including the sale or dispensing of motor fuel on the premises and shall be considered a secondary use to a convenience store.
- (34) *Coverage, lot:* The percentage of lot area covered by all buildings or structures on the lot (footprint) divided by the lot area. Buildings include any structure or part of a structure covered by a roof including, but not limited to, residences, unenclosed porches, garages, gazebos, sheds, breezeways, carports, etc. An area not to exceed 300 square feet of an unenclosed front porch shall be deducted from the lot area coverage. The area of lot coverage is calculated from the foundation footprint at grade of all buildings.
- (35) *Coverage:* The percentage of the lot area covered by the building area obtained by dividing the building area by the lot area.
- (36) *Day care center:* A day care center is a group program providing for more than ten (10) children in a family home or more than four (4) children in a facility other than a family home.
- (37) *Director:* The Director of Public Works or his/her designee.
- (38) *Disguised support structure:* Any free-standing man-made structure designed for the support of antennas, the presence of which is camouflaged or concealed as an appropriately-placed architectural or natural feature. Such structures may include, but are not limited to, clock towers, campaniles, observation towers, signs, light standards, flag poles, and artificial trees.
- (39) *District:* A section of the city for which uniform regulations governing the use, height, area, and intensity of use of buildings and land, and open spaces about buildings, are herein established.
- (40) *Domiciliary home:* An institution which furnishes food, shelter and other nonmedical services, together with personal services such as assistance in normal daily activity, help with dressing, and supervision of medications only for three (3) or more individuals not related to the operator, and does not furnish or provide skilled nursing care, (and does] not admit and maintain bed patients.

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- (41) *Dwelling*: A building designed or used exclusively as the living quarters for one or more families.
- (42) *Dwelling, one-family*: A detached building designed for or occupied exclusively by one (1) family.
- (43) *Dwelling, two-family*: A building designed for or occupied exclusively by two (2) families living independently of each other.
- (44) *Dwelling, multifamily*: A dwelling or group of dwellings on one (1) lot containing separate living units for three (3) or more families, but which may have joint services or facilities or both.
- (45) *Dwelling group*: A group of two (2) or more one-family, two-family or multiple dwellings occupying a lot in one (1) ownership and having any yard in common.
- (46) *Dwelling, row*: A dwelling, the walls on one (1) or two (2) sides of which are in common with the walls of adjoining dwellings and are party or lot line walls.
- (47) *Dwelling unit*: A building or portion thereof providing complete housekeeping facilities for one family.
- (48) *FAA*: The Federal Aviation Administration.
- (49) *Family*: An individual or married couple and the children thereof and no more than two (2) other persons related directly to the individual or married couple by blood or marriage and not more than one (1) unrelated person (excluding servants) or otherwise a group of not more than four (4) persons living together as a single housekeeping unit in a dwelling unit.
- (50) *Family day care home*: A family home in which family-like care is given to six children or less, not related to the day care provider, for any part of the 24-hour day: A family day care home which shall conform to the following minimum standards and restrictions:
 - a. That each family day care home shall not provide for more than six (6) children not related to the day care operator.
 - b. That no such home shall be permitted unless it is licensed by the Department of Public Health and Welfare, Division of Welfare, State of Missouri.
 - c. That not more than one (1) such home shall be permitted on each block. That the term "block" as used herein means on both sides of the street between two intersecting streets, or from an intersecting street to the dead end of a street. That in no instance shall there be more than thirty (30) such family day care homes established and permitted within the City of Kirkwood.

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- d. That no family day care home shall be permitted unless the yard in which the home would operate meets the minimum requirements of the zoning district in which the home is located.
 - e. That a permitted family day care home shall operate only within the hours of 7 a.m. to 7 p.m. for the care of children not related to the day care operator.
 - f. That the occupancy permit for a family day care home shall be granted for twelve (12) months, at the end of which time the operator shall be required to apply for a renewal of the occupancy permit for said permitted use. At the time of so applying, the operator must demonstrate and show to the Building Commissioner that the family day care home complies with all of the minimum standards herein set forth before the occupancy permit for said permitted use may be renewed.
 - g. There shall be no advertisement or any signs whatsoever displayed on or about a family day care home, nor shall there be any advertisement in any publication or media advertising the home as a family day care home.
 - h. A family day care home shall only be permitted in the residential districts of the City of Kirkwood so long as it complies with the regulations and standards for licensed family day care homes as published by the Missouri Department of Public Health and Welfare, Division of Welfare.
- (51) *FCC*: The Federal Communication Commission.
- (52) *Floor*: The bottom or lower part of a room on which one stands or the horizontal structure which divides a building into stories.
- (53) *Floor area ratio*: The total floor area of the building determined by adding each of the stories including second floor areas open to the floor below and 50% of the attached garage, divided by the total lot area. Basement areas, unenclosed porches, and half-story (attic) living areas are excluded. Floor area for the first and full second floor shall be measured from the exterior of the building.
- (54) *Floor area ratio (F.A.R.)*: The total floor area of the building or buildings on a lot divided by the area of such lot, or in the case of a "multiple- dwelling plan" as herein defined, by the net site area.
- (55) *Food store*: An establishment having a gross area of over five thousand (5,000) square feet whose principal business is the sale of prepackaged food items not for consumption on the premise and other household items. The sale of ready-to-consume foods and non-alcoholic beverages are permitted as a secondary use when less than 10 percent of the interior space of the establishment is used for a serving area, seating/consumption area or any combination thereof. This shall include, but not be limited to, grocery stores,

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supermarkets, bakery shops, candy shops, and convenience stores. Motor fuel shall not be sold or dispensed on the premises are defined as food/gas stores.

- (56) *Food/gas stores:* Same as food store, except includes sale or dispensing of motor fuel on premises.
- (57) *Frontage:* All of the property abutting on one (1) side of a street or places (crossing or terminating) or, if the street or place is dead-ended, then all of the property abutting on one (1) side between an intersecting street or place and the dead end of the street or place.
- (58) *Garage, private:* An accessory building, housing not to exceed four (4) motor-driven vehicles, for the first dwelling unit plus two (2) additional motor-driven vehicles for each additional dwelling unit, the property of and for the use of the occupants of the lot or the site area on which the private garage is located.
- (59) *Garage, public:* Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.
- (60) *Group day care home:* A group day care home is a family home in which family-like care is given to [at least] seven (7), but not more than ten (10) children, not related to the day care provider, for any part of the twenty-four-hour day.
- (61) *Height, Towers:* The vertical distance measured from the average grade to its highest point and including the main structure and all attachments thereto.
- (62) *Home occupation:* An accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small nameplate not more than one (1) square foot in area, and in connection therewith there is not involved the keeping, storing or maintaining of an inventory, equipment or machinery; there is no commodity sold upon or from the premises; nor more than one (1) person is employed, other than a member of the immediate family residing on the premises; no mechanical equipment is used except such as is normally used for purely domestic or household purposes and vehicles in connection with the home occupation shall comply with Article XI, Section 2, paragraph (a)(1) of the Zoning Ordinance. The offices of a physician, surgeon, dentist or other professional person, including an instructor in violin, piano or other individual musical instrument limited to a single pupil at a time, who offers skilled services to clients, and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be home occupations so long as they are within the requirements herein set forth.
- (63) *Hospital:* Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, convalescent

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home and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments, and shall not be deemed to include domiciliary homes. The term "hospital" may include medical clinics, medical or surgical facilities, or medical, dental or physician office buildings when such buildings or facilities are situated on the same zoning lot or on a zoning lot immediately contiguous to the zoning lot upon which an above-defined institution is located and are owned by said institution.

- (64) *Hotel or motel:* A building or group of buildings in which lodging is provided and offered to the public for compensation and in which ingress and egress to and from rooms is controlled or regulated through an inside lobby or office supervised by a person in charge at all hours, and which is open to transient guests, in contradistinction to a boardinghouse or lodging house. A restaurant and other accessory services may also be provided on the same premises.
- (65) *Laundromat:* A business that provides home-type washing, drying and/or ironing machines and/or dry cleaning machines for hire to be used by customers on the premises.
- (66) *Learning center:* A business that provides one on one or small group instruction in a non-traditional school setting which may be supplementary to public or private schooling. This shall include tutoring establishments, music instruction, dance instruction, art instruction, martial arts instruction, or similar uses.
- (67) *Line, building:* (See "building lines")
- (68) *Loading space:* A space within the main building or on the same lot therewith providing for the standing, loading or unloading of trucks.
- (69) *Lodging house:* A building where lodging only is provided for compensation to three (3) or more, but not exceeding twenty (20) persons, in contradistinction to hotels open to transients.
- (70) *Lot:* A parcel, tract, plot or area of land accessible by means of a street or place. It may be a single parcel separately described in a deed or plat which is recorded in the office of the county recorder of deeds or it may include parts of or a combination of such parcels when adjacent to one another and used as one.
- (71) *Lot, corner:* A lot at the junction of and having frontage on two (2) or more intersecting streets. On corner lots the rear lot line shall be the property line which essentially parallels the street on which the lot has the least dimension.
- (72) *Lot coverage:* (See "coverage")
- (73) *Lot, depth of:* The mean horizontal distance between the front lot line and the rear lot line, measured in the general direction of the side lot lines.
- (74) *Lot, interior:* A lot other than a corner lot or through lot.

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- (75) *Lot line, front:* In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the narrowest frontage of the lot from the street or place.
- (76) *Lot of record:* A full and undivided lot which is part of a subdivision, the plat of which has been recorded in the office of the recorder of deeds; or a parcel of property described by metes and bounds, the description of which was recorded in the office of the recorder of deeds prior to incorporation or annexation by the City of Kirkwood or prior to February 24, 1967; or a developed parcel of property recorded in the office of the recorder of deeds.
- (77) *Lot, through:* A lot having frontage on two (2) parallel or approximately parallel streets, and which is not a corner lot.
- (78) *Lot width:* The dimension of a lot, measured between side lot lines on the front building line.
- (79) *Mezzanine:* An intermediate or fractional story between the floor and ceiling of a main story extending over part of the next floor below.
- (80) *Net site area:* The total area of a lot being developed as a single or unified development, less areas to be dedicated for public use.
- (81) *Nonconforming use:* Any building or land lawfully occupied by a use which was in accordance with the zoning regulations, if any, in existence when the use commenced and which through subsequent enactments or changes of zoning regulations, either prior to the passage of this ordinance or by the passage of this ordinance, or amendments thereto, which does not conform or did not conform thereafter, with the use regulations of the district in which it is situated.
- (82) *Nursing home:* A facility in which all nursing care shall be under the direction of a registered professional nurse or licensed practical nurse who shall assume responsibility for all nursing care within the facility and who shall perform duties under the general direction of a person licensed to practice medicine and surgery in the State of Missouri. A nursing home is one so equipped and designed that it may accommodate convalescent or other persons who are not acutely ill and not in need of hospital care but who do require skilled nursing care under the direction of a licensed physician. The term "nursing home" means a private home, institution, building, residence or other place whether operated for profit or not which provides through its ownership or management, personal and nursing care for three or more individuals not related to the operator.
- (83) *Parabolic antennae:* Also referred to as "earth stations," "disk type satellite signal-receiving antennae," "ground stations," "microwave antennae," or "microwave repeater":

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- a. A signal-receiving device, the purpose of which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial sources, or
- b. A reflector used for receiving, transmitting, or amplifying microwave signal beams.

Editor's note—Section 1 of Ordinance No. 7452 purported to amend App. A, Art. II, § 1(b) by adding subsection (62) and renumbering the existing subsections; however, to conform to existing format, subsection (62) has been redesignated as (62a) at the discretion of the editor.

- (84) *Parking lot:* Any place, lot, parcel or yard used in whole or in part for the storage or parking of two (2) or more vehicles where such usage is not incidental to or in conjunction with a dwelling, or other usage permissible in dwelling districts and located on the same tract.
- (85) *Parking space:* An off-street space available for the parking of one motor vehicle, and having an area of not less than one hundred sixty-two (162) square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street or alley.
- (86) *Place:* An open unoccupied space other than a street or alley, permanently reserved as the principal means of access to abutting property.
- (87) *Residential hotel:* A dwelling occupied by permanent guests only and not by transients. It may include restaurants, newsstands and other accessory services primarily for serving its occupants and only incidentally the public.
- (88) *Reserved.*
- (89) *Restaurant:* An establishment or any portion thereof whose business includes the sale of food, frozen desserts, or beverages in a ready-to-consume state for (1) consumption on the premises; (2) carry out; (3) delivery or any combination thereof. The interior space of such an establishment can be used for (the) preparation of food, [as a] serving area, seating/consumption area, or any and all combinations thereof. Except as otherwise limited herein, this shall include, but not be limited to, deli's; fast-food restaurants; pizza restaurants; pizza delivery establishments; sit-down restaurants; ice cream and frozen dessert stores; banquet halls; bakery shops which serve food to be eaten on the premises; and candy shops which serve food to be eaten on the premises. Drive-thru restaurants and drive-in restaurants are not included in this definition and are defined hereinbelow as Restaurants, drive-thru/drive-in.
- (90) *Restaurants, drive-thru/drive-in.* An establishment or any portion thereof whose business includes the sale of food, frozen desserts, or beverages in a ready-to-consume state for service to vehicle occupants while they remain in the vehicle. The interior space of such an establishment can be used for [the] preparation of food, (as a) serving area, seating/consumption area, or any and all combinations thereof. This shall include, but not be limited to, deli's; fast-food restaurants; pizza restaurants; sit-down restaurants; ice cream and frozen dessert

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stores; bakery shops; and candy shops which serve food in a ready-to-consume state to vehicle occupants while they remain in the vehicle.

(91) *Restaurant, outdoor seating, accessory use:* Restaurants in commercial districts may have outdoor seating or private property contiguous to the restaurant facility when meeting the following provisions:

- a. Outdoor seating for twelve or less on pavement or decking.
- b. No additional permanent structures to be installed.
- c. No outdoor speakers or music.
- d. Outdoor tables, chairs, umbrellas, furniture and decorative items shall be of uniform design.
- e. Provisions are made for adequate litter and trash control including the providing and maintenance of trash receptacles. The outdoor area shall be kept clean and free of debris at all times.
- f. Service equipment shall not be permitted outdoors.
- g. Hours of use are limited from 6 a.m. to midnight except in B-1, where it shall be limited from 7 a.m. to 10 p.m.
- h. The seating shall not obstruct any entry or exit of the building or adjacent buildings.
- i. An unobstructed pedestrian walkway at least six feet wide shall be maintained between the tables and the vehicle traffic way.
- j. Provision shall be made for appropriate lighting which will not disturb adjacent property or affect traffic.

(92) *Restaurant, outdoor seating:* Outdoor restaurant seating on private property not meeting the criteria in subparagraph (68b) above for accessory outdoor seating. This Special Use Exception shall only be considered for outdoor seating contiguous to the restaurant facility and as part of (1) a restaurant or drive-in/drive thru restaurant Special Use Exception; or (2) an amendment to an existing restaurant or drive-in-drive/ thru restaurant Special Use Exception or; (3) a Special Use Exception for the expansion, extension, enlargement, of a legally non-conforming (restaurant) use. There shall be no additional fee for this part of the Special Use Exception. Granting of a Special Use Exception for this category shall take into account the matters set forth in the Special Use procedure as applicable, and the following conditions:

- a. **Parking.** That adequate off-street parking exists for the increased restaurant use or that additional adequate off-street parking is provided. The Council may require additional off-street parking.

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- b. Outdoor Speakers. The use of outdoor speakers shall be determined by the City Council.
 - c. Outdoor tables, chairs, umbrellas, furniture or decorative items shall be of uniform design.
 - d. Litter Control. Provisions shall be made for adequate litter and trash control including the providing of maintenance of trash receptacles. The outdoor area shall be kept clean and free of debris at all times.
 - e. Hours. The hours of operation shall be as determined by the City Council.
 - f. Pedestrian Traffic. An unobstructed pedestrian walkway of at least six feet wide shall be maintained between the tables and the vehicle traffic way.
 - g. Lighting. Provision shall be made for appropriate lighting which will not disturb adjacent property or affect traffic on adjacent rights-of-way.
 - h. The seating shall not obstruct any entry or exist of the building or adjacent buildings.
- (93) *Riding academy:* Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.
- (94) *School:* An establishment for instruction in a branch or branches of knowledge.
- (95) Service station A building, buildings, premises, or portion thereof, which are used, arranged, designed, or intended to be used for the dispensing or retail sale of vehicle fuel; or for the maintenance, lubrication, or minor repair of vehicles, including tire and battery sales and service.
- (96) *Stable, private:* An accessory building in which horses are kept for private use and not for hire, remuneration or sale.
- (97) *Story, Ground:* The story of a building at or nearest the ground level which provides the main pedestrian access to the building from the nearest adjacent right-of-way.
- (98) *Story, half:* A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is used for residential living purposes. Floor areas with a ceiling height of five (5) feet or greater shall be included in the computation of allowed living space. A half-story shall not contain cantilevered areas, or more than twenty-five (25) percent open

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dormer floor area. In single-family residences, a half-story shall not contain independent apartment or living quarters.

- (99) *Street*: A public or private way which affords the principal means of access to abutting properties.
- (100) *Street grade*: The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.
- (101) *Street, major*: A street designated as a major street or thoroughfare as part of a comprehensive street plan of the city. Pending adoption of a comprehensive street plan, the following streets are designated as major streets: Kirkwood Road; Manchester Road; Big Bend Road; and Geyer Road.
- (102) *Street, secondary*: All streets not designated as major streets.
- (103) *Structure*: Anything constructed or erected, the use of which requires location on the ground, attachment to something having location on the ground.
- (104) *Tower*: A structure designed for the support of one (1) 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 under fifty-five (55) feet in height owned and operated by an amateur radio operator licensed by the Federal Communication Commission.
- (105) *Use*: The specific purpose for which land or a building is or may be occupied.
- (106) *Vehicle*: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- (107) *Yard*: A space on the same lot with a principal building, open, unoccupied, and unobstructed by structures, except as otherwise provided in this ordinance.
- (108) *Yard, front*: A yard extending across the full width of the lot between the front of the principal building and the front lot line unoccupied other than by steps, walks, terraces, driveways, lampposts, and similar structures, the depth of which is the least distance between the front lot line and the front of such principal building.
- (109) *Yard, rear*: A yard extending across the full width of the lot between the rear of the principal building and the rear lot line unoccupied other than by steps, walks, terraces, driveways, lampposts, and similar structures, the depth of which is the least distance between the rear lot line and the rear of such principal building.
- (110) *Yard, side*: A yard between the principal building and the side lot line, extending from the front yard or from the front lot line where no front yard is required, to

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the rear yard. The width of the required side yard is measured horizontally, at ninety (90) degrees with the side lot line, from the nearest part of the principal building.

- (111) *Zoning district map:* A map entitled "Kirkwood, Missouri, Zoning District Map," dated as of the effective date of this ordinance and forming a part hereof which sets forth the zoning classifications of the various areas of the city. Said map shall be amended whenever the zoning classification of any area of the city is changed.

(Ord. No. 9921, §1, 5-20-10; Ord. No. 9941, §§11-12, 8-5-10)

Secs. A-4.—A-5. Reserved.

(Ord. No. 5370, §1(a), 1-12-70; Ord. No. 5603, §1(b), 6-7-73; Ord. No. 5834, §1,6-12-75; Ord. No. 5872, §1,10-2-75; Ord. No. 6141, §1, 6-2-77; Ord. No. 6160, §1, 7-21-77; Ord. No. 6223, §1, 1-19-78; Ord. No. 6306, §1,8-3-78; Ord. No. 6570, §§1,2,3-20-80; Ord. No. 6837, §1,3-4-82; Ord. No. 7116, §1, 11-3-83; Ord. No. 7451, §1,1-2-86; Ord. No. 7452, §1,11-3-83; Ord. No. 7461, §§ 1, 3, 2-6-86; Ord. No. 7710, §1, 11-19-87; Ord. No. 7768, §§1, 2, 6-2-88; Ord. No. 7938, §1, 1-18-90; Ord. No. 8043, §1,2-21-91; Ord. No. 8504, §§1-3, 4-18-96; Ord. No. 8513, §1, 5-16-96; Ord. No. 9410, §§1-2, 7-1-04; Ord. No. 9700, §1, 9-20-07; Ord. No. 9738, §§7-10, 1-17-08; Ord. No. 9803, §1, 10-16-08; Ord. No. 9848, §1, 4-2-09)

ARTICLE III. ESTABLISHMENT OF DISTRICTS*

Sec. A-6. Establishment of use districts and zoning map.

- (a) The City of Kirkwood is hereby classified and divided into thirteen (13) districts designated as follows:

Residential Districts

- R-1 One-Family Dwelling District
- R-2 One-Family Dwelling District
- R-3 One-Family Dwelling District
- R-4 One-Family Dwelling District
- R-5 Multiple-Family Dwelling District
- R-6 Multiple-Family Dwelling District

Business districts

- B-1 Neighborhood Business District
- B-2 General Business District
- B-3 Highway Business District
- B-4 Planned Commercial District
- B-5 Planned Commercial Development District

*Editor's note—The zoning district map is not included in this appendix, but is on file in the office of the city clerk.

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Manufacturing district

I-1 Light Industrial District

Special district

F-1 Flood Plain District

- (b) Zoning District Map. The zoning district map which accompanies and is hereby declared to be a part of this ordinance **, shows the boundaries of the areas covered by the districts listed in Paragraph (a) of this Section. Notations, references, indications and other matters shown on the zone map are hereby declared to be as much a part of this ordinance as if they were fully described herein. The said zoning district map is properly attested and is on file with the administrative director/city clerk of the City of Kirkwood, Missouri. (Ord. No. 6110, §1, 4-14-77)

Sec. A-7. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

- (a) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- (b) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- (c) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning district map.
- (d) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the center of the right-of-way of said railroad line unless otherwise indicated.
- (e) Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the center of such stream, lake or other body of water or at the limit of the jurisdiction of the City of Kirkwood unless otherwise indicated.

Sec. A-8. Procedure relating to annexed or vacated areas.

(a) Whenever an area is annexed to the City of Kirkwood, or any other city shall merge with the City of Kirkwood, the annexed area or the merged area shall have continued in force the zoning in force over said annexed area or merged area at the time of such annexation or merger, whether the same

**Editor's note—The map referred to in this paragraph is not a part of this appendix, but is on file with the city.

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complies with the provisions of the Zoning Ordinance and regulations of the City of Kirkwood or not; or, if no such zoning regulations were in force, the annexed area or merged area shall be zoned as R-1 One-Family Dwelling District pursuant to the provisions of this Zoning Ordinance for a period of six (6) months from the date of the annexation or the date of the merger, after which time only zoning regulations enacted after the date of annexation or merger shall be applicable.

(b) Whenever any street, alley, public way, railroad right- of-way, waterway or other similar area is vacated by proper authority, the districts adjoining each side of such street, alley, public way, railroad right-of-way, or similar area shall be extended automatically to the center of such vacation and all areas included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all the vacated area.

Secs. A-9.—A-20. Reserved.

ARTICLE IV. APPLICATION OF REGULATIONS

Sec. A-21. General regulations.

Except as provided elsewhere in this ordinance:

- (a) No building or structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.
- (b) No building or structure shall hereafter be erected or altered:
 - (1) To exceed the height,
 - (2) To accommodate or house a greater number of families,
 - (3) To occupy a greater percentage of lot area, or
 - (4) To have a narrower or smaller rear yard, front yard or side yard than is specified herein for the district in which such building or structure is located.
- (c) The minimum yard, parking spaces and other open spaces, including lot area per family required by this ordinance for each and every building or structure existing at the time of the passage of this ordinance or for any building or structure hereafter erected, shall not be encroached upon or considered as yard, parking or other open space for any other building or structure, nor shall any lot area be reduced below the requirements of this ordinance for the district in which such lot is located.
- (d) No structure may be erected upon a lot unless such lot shall be a "buildable lot," as that term is defined herein.

(Ord. No. 6571, §1, 3-20-80)

Sec. A-22. Professional services, legal services, and associated studies.

(a) The City has and continues to reserve the authority to charge and collect reimbursement for third-party building plan, site, or other review of the application including, but not limited to, civil

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engineer, traffic engineer, landscape architect, urban forester, arborist, attorney, or any other professional costs and associated expenses. The City may implement an administrative escrow and/or deposit procedure whereby funds are deposited with the City in an amount equal to estimated third-party costs.

(b) If the City makes a determination that an application requires professional services, the City may utilize its own professional staff such as the City Attorney's Office, Planning, City Engineer, City Forester, or may engage a professional to conduct the study and deliver the results to the City. The applicant shall pay the cost of the professional service plus administrative costs to the City of Kirkwood to retain the professional.

(c) The professional services shall not commence without agreement of the applicant as to the costs of such study and the deposit with the City of the estimated fee for the professional services plus administrative costs of ten percent (10%) of the estimated cost of the services or a minimum of \$100. The applicant shall be refunded any overpayment at the conclusion of the professional report, except the administrative cost to the City which is a non-refundable fee.

(d) The professional report or study shall become the property of the City for its sole use.

(Ord. No. 9200, §1, 11-21-02)

Sec. A-23. Site plan review.

(a) *Purpose.* The purpose of this section is to require site plan review for certain buildings, structures, and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the city for the betterment of the general welfare of the community; safe and convenient traffic movement, both within a site and in relation to access streets; the stability of land values and investments; the maintenance and improvement of the general welfare and character of the developments within the community, with proper attention to setting and the avoidance of unsightly appearances; and will be conducive to the proper development of the city.

(b) *Conflict with other provisions.* In the event that the guidelines, regulations and standards in site plan approval, as enumerated herein, are inconsistent with any of the guidelines, regulations or standards prescribed elsewhere as applicable to the project or plan identified in paragraph (f)(2) then the guidelines, regulations and standards enumerated herein shall control. However, this provision shall not constitute a waiver of any applicable procedural requirement for the project or plan identified in paragraph (f)(2) and the review of such applications will run concurrent with the site plan review.

(c) *Definitions.* When used in this section the following words shall have the following meanings:

Application for site plan review shall mean the application for site plan review submitted by an applicant on forms provided by the City of Kirkwood and which contain all of the documents and information required by this section.

Site plan shall mean a plan of the site submitted in connection with an application for site plan review in accordance with the provisions of this section which contains the information specified in subsection (e)(2) herein.

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Site plan approval shall mean the review and approval of applications for site plan review by the planning and zoning commission of the City of Kirkwood in accordance with the provisions of section (f)(2) herein.

Site plan review shall mean a review of the application for site plan review and the documents accompanying such application, including, but not limited to the site plan submitted with such application, conducted (i) either administratively by the building commissioner or (ii) by the planning and zoning commission in accordance with the requirements for site plan approval.

(d) *Matters requiring site plan review.* Except as otherwise provided herein, site plan review is required for all construction requiring a building permit and all matters that require site plan approval as provided herein. Site plan review is not required for construction of or modifications to single family detached dwelling units or structures appurtenant thereto, unless otherwise provided.

(e) *Application and submission requirements.*

(1) An application for site plan review may be filed by any person with a financial, contractual or proprietary interest in the property to be developed according to the submitted plan.

(2) All applications for site plan review shall be submitted to the director of public works. The director of public works shall forward appropriate applications to the planning and zoning commission for its review. Applications involving administrative site plan review shall be submitted to the office of the building commissioner by the director of public works. All site plan review applications shall include a site plan skillfully drawn to scale, which shall include the following:

- a. Property line dimensions and bearings, or angles;
- b. All existing buildings and improvements;
- c. Zoning setback lines;
- d. New buildings or additions located with all dimensions to property lines;
- e. Parking layout and driveways, including parking stall size, aisle and driveway widths, entrance approach details, and the number of cars in each row of parking spaces;
- f. Site topography showing existing and proposed contours at intervals of two (2) feet or less;
- g. Landscaping or buffering that satisfies the requirements of the landscape standards of the City of Kirkwood, if any;
- h. When a site plan that is reviewed by the Planning and Zoning Commission includes a significant tree or trees (significant trees shall be live, healthy trees of a species suitable for the urban environment having a diameter of eight inches or greater), a tree study prepared and endorsed by an arborist certified by the

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International Society of Arboriculture or forester certified by the Society of American Foresters shall be required. The study shall provide the City with a professional opinion regarding the survivability of significant trees existing on the site, proposed tree replacement, and the appropriateness of the landscaping proposed for the subdivision. This study shall include tree protection methods for each tree and the dollar value of each tree designated to be saved. The dollar value of the tree(s) shall be based on data contained in the International Society of Arboriculture's "Guide for Tree Appraisal." If the petitioner fails to provide such study or it is inadequate or deficient, the City may require a City professional study under the provisions of the code.

- i. Utilities. Indicate provisions for access to major utilities including water, storm sewers, sanitary sewers, gas and electricity;
 - j. Stormwater management and erosion control. Indicate provisions to be made to direct and detain stormwater on-site in accordance with applicable city regulations and to mitigate erosion both during and following completion of construction. Indicate location of any sinkholes, spring silt beams, ponds, and other silt control facilities;
 - k. Lighting;
 - l. Easements;
 - m. Existing right-of-way, street and entrances;
- (3) The site plan shall be drawn accurately to scale.
 - (4) The building commissioner or planning commission may waive any of the items required by Article IV, Section 2(e), where it is deemed appropriate.
 - (f) *Procedure.*

(1) *Administrative action.* The building commissioner shall determine whether or not an application for site plan review satisfies all the requirements of the zoning ordinance.

At such time as the building commissioner determines the application to be complete, the building commissioner will (i) refer all applications that require site plan approval pursuant to paragraph (f)(2) below to the public works director for planning and zoning commission review, or (ii) where appropriate, issue permits.

- (2) Site plan approval
 - a. The planning and zoning commission shall review all applications for site plan review submitted in connection with any of the following and such site plan review shall be concurrent with any other review process required, if any, with respect to an application for any of the following:

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1. Construction of a new building or structure or structural modifications to the exterior of an existing structure (including additions) for any use or
 2. Construction, expansion, or modification of a parking lot which creates four or more parking spaces or 3,000 square feet or more of paved area, except
 3. Site plan review shall not be required for single-family residence, accessory structures or uses to a single-family residences, an approved temporary use, or building additions containing 1,000 square feet or less of gross floor area.
- b. For site plan review by Planning and Zoning Commission, a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.”
- (3) *[Determination final.]* Subject to the right of appeal specified herein, the determination of the site plan review by the planning and zoning commission shall be final except when the application for site plan review is filed in conjunction with another application that requires final approval by the city council through the adoption of an ordinance. Under such circumstances, the site plan review, together with the planning and zoning commission recommendation for approval or disapproval, shall be submitted to the city council simultaneously with the planning and zoning commission recommendation in connection with the other application. The city council shall review the findings of the planning and zoning commission considering the criteria established herein. The city council may overturn or otherwise modify the planning and zoning commission decision.
- (4) The Planning and Zoning Commission shall review and act upon a site plan review application within 120 days of the date on which the application is filed with the City. If the Planning and Zoning Commission fails to take action within the time specified herein, the site plan review application shall be considered to be approved, except when the application for site plan review is filed in conjunction with another application that requires final approval by the City Council through the adoption of an ordinance or resolution. Under such circumstances, the review time of the other application shall apply and the site plan review recommendation shall be submitted to the City Council simultaneously with the other petition.
- (g) *Guidelines in site plan approval:* In conducting a site plan approval, the planning and zoning commission will consider the following:
- (1) The efficiency and harmonious relationship of the topography to the site plan, the size and type of lot, the character of adjoining property and the type and size of buildings that the site will be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance.
 - (2) The landscaping and buffering should be preserved in its natural state, insofar as reasonably practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas and shall be in accordance with the landscape standards of the City of Kirkwood, if any.

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- (3) Site surface drainage should provide for the reasonable removal of stormwaters so as not to adversely affect neighboring properties.
 - (4) Reasonable visual and sound buffering should be provided for all dwelling units located in the surrounding area.
 - (5) Landscaping, fences, walks, and buffers should be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
 - (6) All structures or dwelling units should have access to a public street, walkway or other area designated for common use.
 - (7) A pedestrian circulation system should be reasonably insulated from the vehicular circulation system.
 - (8) All loading and unloading areas and outside storage areas, other than for the storage of trash and recyclables, which face or are visible from residential properties or thoroughfares shall be screened.
 - (9) All outside storage areas for the storage of trash and/or recyclables shall be screened. Trash dumpster screening shall be constructed of sight-proof fence or wall not less than six (6) feet in height. Latching gates of similar or complementary materials shall be required to completely enclose the trash dumpster. Recycling dumpsters will be screened from thoroughfares and adjoining properties as determined by the Planning and Zoning Commission.
 - (10) Exterior lighting should provide adequate safety for users of the site and should be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
 - (11) Vehicular loading and unloading and parking, and vehicular and pedestrian circulation on the site and onto adjacent public streets and ways should not create hazards to safety, should not result in serious loss of natural features of the land, and should not impose a significant burden upon public facilities. Absent extraordinary circumstances, the proposed development must avoid vehicular circulation onto adjacent public streets in residential areas and should direct vehicular circulation onto adjacent public streets in commercial areas in order to promote safety and maintain the integrity of residential areas.
 - (12) A reasonable plan for the private care and maintenance of all open space should be provided.
 - (13) The proposed development should not adversely affect offsite public services including sewer, water, and streets, or adversely affect the character of the neighborhood or adversely affect the general welfare of the community.
- (h) *Conditions and restrictions.* In approving an application for site plan review, the planning and zoning commission may impose conditions, restrictions, and prescribe development

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standards within the range of such discretions as prescribed elsewhere in this zoning code. In no event, however, shall any permitted use or use regulations be varied so as to make them less restrictive than prescribed in the district, or other applicable regulations.

If the planning and zoning commission imposes conditions or restrictions, it shall designate specific requirements which must be met before an applicant may be granted final approval of a site plan. Failure to comply with any of these conditions or restrictions shall constitute a violation of this ordinance punishable in section 1-8 of the Code of Ordinances.

(i) *Site plan and building and occupancy permits.* The building commissioner shall have authority to issue a conditional occupancy permit in the enforcement of this ordinance, and allow temporary occupancy, provided that the occupant establishes an escrow deposit guaranteeing the completion of the same.

(j) *Staged development.* In the event an applicant desires to present a site plan identifying the construction of a complex of buildings and site improvements to be developed over an extended period of time, a detailed site plan shall be submitted for approval by the planning and zoning commission in accordance with this section for each specific building project. This shall include a proposed time schedule for each phase of the project. Such detailed site plans may be submitted in advance of or in conjunction with an application for a building permit. Of primary importance in this review will be a determination that the detailed site plan complied with the site plan approval for the total development or project. This provision shall not be construed to obligate an applicant to provide a site plan detailing staged development but is intended to be discretionary with the applicant.

(k) *Period of validity.* No approval of an application for site plan review by the building commissioner or the planning and zoning commission shall be valid for a period longer than twelve (12) months from the date granted, unless within such a period a building permit is obtained and substantial construction is commenced. The planning and zoning commission may grant extensions not exceeding twelve (12) months each upon written request of the original applicant and re-submission of the application if the application as resubmitted is substantially the same as the initially approved application. However, the planning and zoning commission has the power in such cases to attach new conditions to its re-approval or disapprove the re-application. Where the application for re-approval contained changes which the planning commission concludes materially alter the initial application, it shall refer the application to the building commissioner who shall initiate a new site plan review procedure in accordance with the provisions hereof.

(l) *Modification of approval of site plan.* After an application for site plan review has been approved by the building commissioner or the planning and zoning commission, changes that are, in the judgment of the director of public works, material to the approved site plan shall require a re-submission and payment of additional fees in accordance with Chapter 5, Article VI "Fee Schedule."

(m) *Financial guarantees.* In reviewing the application for site plan review, the planning and zoning commission shall require a performance guarantee in the form of a letter of credit from a local lending institution furnished by the developer to insure compliance with the conditions of approval including the requirements for drives, walks, utilities, parking, public improvements, landscaping, screening, and the like.

(1) The performance guarantee shall be provided to the City before the issuance of the permit authorizing the project or activity but no later than six months from the date of approval.

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- (2) Before acceptance of the performance guarantee by the City, the developer shall pay to the City of Kirkwood a fee in accordance with Chapter 5, VI “Fee Schedule.” Such fee is for administration and site inspections.
- (3) As work progresses, the director of public works may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
- (4) The City may require the value of trees to be preserved to be included in the performance guarantee. Should the designated trees be lost due to willful action or neglect of the developer, the developer shall provide landscaping and trees in the site area equal to the performance guarantee amount or forfeit the amount to the General Revenue of the City of Kirkwood.
- (5) Failure to satisfy the conditions of the site plan review procedure shall result in the letter of credit being forfeited to the General Revenue of the City of Kirkwood.

(Ord. No. 9014, §1, 4-5-01; Ord. No. 9200, §§2-3, 11-21-02; Ord. No. 9589, §1, 4-6-06; Ord. No. 9933, §§1-2, 7-1-10)

Sec. A-24. Architectural Review.

(a) *Architectural Review Area.* The architectural review board shall review all building permit applications for new construction, exterior renovations or additions in the area bounded by Bodley Avenue to the north, Taylor Avenue to the east, Woodbine Avenue to the south, and Clay Avenue to the west. Single-family residential land uses located within this area shall be exempt from the requirements specified in this section. The architectural review board shall also review all building permit applications for new construction, exterior renovations or additions for multi-family developments (including mixed-use developments) in all areas of Kirkwood.

(b) *Building Permits.* No building permit for new construction, exterior renovations or additions within this area shall be issued until such time as the architectural review board has reviewed the plans in accordance with the requirements of this Ordinance, and has made an affirmative finding that the architectural plan of the proposed construction, renovation or addition is in compliance with the following criteria:

- a. *Style.* No single architectural style should be superimposed upon buildings and each should reflect its own individual style. Monotonous design should be avoided; variation of detail and form should be used to provide visual interest. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings. Additions should relate to the existing building in design, details, colors, and material.
- b. *Scale and Proportion.* The height, scale and proportion of each building should be compatible with its site and adjoining buildings. Building components such as windows and doors should have proportions appropriate to the architecture of the structure.
- c. *Proportion.* Elements of building massing should relate to the size and shape of those of adjacent buildings.

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- d. *Materials.* Materials should be selected for suitability to the type of building and the design in which they are used and for harmony with adjoining buildings. Materials should be of durable quality.
- e. *Colors.* Colors, including trim and accent colors, should be harmonious and visually compatible with neighboring buildings.
- f. *Awnings, Canopies and Marquees.* Awnings, canopies and marquees should fit the character of the building and not interfere with the appearance of the surrounding buildings.
- g. *Preservation of Period Detail.* Original details on existing buildings such as cornices, horizontal bands and decorative elements should be preserved.
- h. *Screening.* Unitarian facilities, including, but not limited to, trash dumpsters and rooftop and mechanical units, should be visually screened with materials harmonious with the building.

Secs. A-25.—A-30. Reserved.

(Ord. No. 7693, §1,10-1-87; Ord. No. 7883, §2,5-4-89; Ord. No. 8154, §1, 9-17-92; Ord. No. 8511, §§1-2, 4, 5-16-96; Ord. No. 9404, §1, 6-3-04)

ARTICLE V. PROVISIONS GOVERNING RESIDENTIAL DISTRICTS

Sec. A-31. R-1 One-Family Dwelling District.

The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section are the district regulations in the R-1 One-Family Dwelling District.

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes and shall adhere to the minimum lot area specified:
 - (1) Church or similar place of worship (3 acres)
 - (2) Convent, parish house, monastery, and rectory, to be regularly occupied by not more than ten (10) persons (1 acre)
 - (3) Dwelling, one-family (1 acre)
 - (4) Parks, recreation facilities, and museums; publicly owned
 - (5) School, public or private
 - a. Kindergarten and elementary (2 acres plus 1 additional acre per 100 students over 200)
 - b. Junior high (10 acres plus 1 acre per 100 students)
 - c. Senior high (15 acres plus 1 acre per 100 students)
 - (6) Antenna and support structure in accordance with Article X.

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- (b) The following accessory uses and structures are permitted, but shall not be constructed upon a lot until the construction of the main building has commenced. Accessory uses and use of accessory structures shall cease immediately upon abandonment of the primary use. Furthermore, accessory structures shall be removed within 90 days after the removal of the primary structure unless a valid building permit is in effect to replace the primary structure:

- (1) Uses:
 - a. Bed and breakfast establishments
 - b. Family daycare home
 - c. Home occupation
 - d. Non-commercial private workshops, studios, studies, and offices, when part of a garage or storage shed and not containing any kitchen, cooking facilities, fireplace, sleeping area, shower, bathing fixture, or full bath which would include a shower or bathing facility.
 - e. Off-street motor vehicle parking areas
 - f. Temporary uses for construction purposes when a building permit is valid.
- (2) Structures, which shall not include a basement:
 - a. Antenna, parabolic, one per lot: Ground-mounted shall not exceed 12 feet above the adjacent ground level or 12 feet in diameter. Building-mounted shall not exceed 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter.
 - b. Antenna, receive-only television (one per lot).
 - c. Antenna and antenna support structure not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC (one per lot).
 - d. Children's playhouse, garden house, and private greenhouse
 - e. Private garage (one per lot)
 - f. Storage sheds not used for the storage of motor vehicles except lawn and garden equipment (two per lot)
 - g. Temporary buildings and trailers for construction purposes when a building permit is valid.
 - h. In-ground Swimming pools
 - i. Above ground Swimming pools only when meeting the setback requirements of the principal permitted use
 - j. Sundecks, patios, and gazebos

- (c) *Special Uses and Minimum Lot Area Requirements.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.

- (1) Artificial lake
- (2) Crematory or cemetery (40 acres)
- (3) Country club or golf course (75 acres)
- (4) Domiciliary Home
- (5) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure

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- (6) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (7) Group day care home and day care center
 - (8) Heliport in conjunction with the operations of a hospital designated as a “Level II Trauma Center” (1 acre)
 - (9) Hospital (5 acres)
 - (10) Museums and historical buildings to preserve a historical residence
 - (11) Nursing Home (3 acres)
 - (12) Private recreational development (1 acre)
 - (13) Private or commercial sewage facility
 - (14) Public or employee off-street parking (1 acre)
 - (15) Antenna support structure in accordance with Article X (1 acre)
 - (16) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri
 - (17) Riding stable and private livestock yard for more than three livestock animals
 - (18) Utility substation (1 acre)
- (d) *Height.* No building other than a church or similar place of worship shall exceed thirty-five (35) feet and 2-1/2 stories in height.
- (e) *Lot Width and Yard Areas.* No building or structure shall be erected or enlarged unless the following lot width and yard requirements are provided and maintained in connection with such building, structure, or enlargement, unless otherwise provided herein.

Cantilever Construction on Single Family Residences. Cantilever overhangs shall not extend into the required front or rear yard setbacks, except architectural features, such as bay windows, dormers, and fireplaces may extend 36 inches into the rear yard setback requirement for a width not to exceed 16 feet and 24 inches into the front yard setback requirement for a width not to exceed 16 feet.

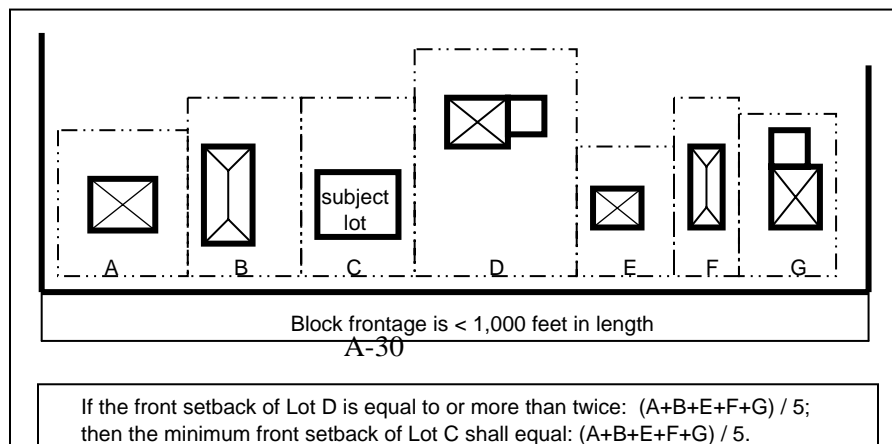
One-family residential structures which were legally constructed and contain front yard, rear yard, or side yard setbacks *which are not in conformance with this code*; the existing front, rear, and/or side yard setbacks of the primary structure which are not in conformity shall be considered as the setbacks for the subject property for the purpose of additions, alterations, and expansions, except that in no case shall the minimum side yard setback be less than five (5) feet. However, construction in front of the existing front yard building line shall be permitted if it satisfies subsection (2)e below.

- (1) Lot Width:
 - a. Every one-family detached dwelling, convent, monastery, rectory or parish house hereafter erected shall be on a lot having a width at the established front building line of not less than one hundred fifty (150) feet.
 - b. Churches and similar places of worship hereafter erected shall be on a lot having a width at the front building line of not less than two hundred (200) feet.

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(2) Front yard:

- a. There shall be a front yard having a depth of not less than sixty (60) feet.
- b. On a through lot, the required front yard shall be provided on both streets.
- c. On a corner lot, there shall be a front yard on each street.
- d. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard for a distance not to exceed four feet.
- e. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:
 1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.
 2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.
 3. The front yard setback for a lot located between two improved lots, where the front yard setback of one of the improved lots exceeds the average front yard setback of all other lots on the same side of the block by two times or more, shall be determined by calculating the average of all front yard setbacks on the same side of the block as the subject lot. For blocks which are more than 1,000 feet in length the front yard setback average shall be determined using all lots (or portions thereof) within a distance of **300 feet but not less than three lots** in each direction of the subject lot. These calculations shall exclude the lot with the enlarged setback **from both the 300 feet distance and minimum number of lots parameters.**



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- (3) Side yard:
- a. For one-family detached dwellings and accessory uses thereto, there shall be a side yard on each side of a building having a width of not less than twenty-five (25) feet.
 - b. On lots used for a church or similar place of worship, there shall be a side yard on each side of a building having a width of not less than forty (40) feet.
 - c. When a lot of record having a lesser width than is herein required is to be used for a one-family dwelling, the side yard requirement on each side of the building shall be one-sixth (1/6) of the width of the lot, but shall not be less than twelve (12) feet.
 - d. Terraces, uncovered and covered porches, decks, ornamental features, flues, bay windows, cantilevers, stairs to second story or above, mechanical equipment, except air conditioning units, shall meet the side yard setback requirements of the single family residential zoning district, except fireplaces and chimneys may project up to 24 inches into the side yard. Roof overhangs are permitted but shall not exceed 30 inches. Air conditioning unit pads shall be installed against the foundation wall or if not against the foundation wall, as close as possible to the foundation wall as approved by the City. This subsection shall not prevent replacement or repair of existing legal non-conforming encroachments.
- (4) Rear yard
- a. There shall be a rear yard having a depth of not less than fifty (50) feet. In computing the depth of a rear yard, where such yard opens onto an alley, one-half (1/2) of the alley width may be included as a portion of the rear yard.
 - b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.
 - c. An unenclosed porch not more than one story in height or paved terrace may project into the required rear yard for a distance not exceeding ten (10) feet.
- (f) *Lot Coverage.* The lot coverage, including accessory buildings, shall not exceed:

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- (1) For lots 7,500 square feet or less in area, 30% or 1,750 square feet, whichever is greater; or
 - (2) For lots greater than 7,500 square feet in area, 25% or 2,250 square feet, whichever is greater; or
 - (3) Exception for single-family residences of 1-1/2 stories or less:
 - (a) For lots 7,500 square feet or less in area, 35%; or
 - (b) For lots greater than 7,500 square feet in area, 30% or 2,625 square feet, whichever is greater.
- (g) *Floor Area Ratio.* The Floor Area Ratio for a single-family detached residence shall not exceed:
- (1) For lots 10,000 square feet or less in area, 0.35 or 2,250 square feet, whichever is greater; or
 - (2) For lots greater than 10,000 but less than 20,000 square feet in area, 0.30 or 3,500 square feet, whichever is greater; or
 - (3) For lots 20,000 square feet or greater, 0.25 or 6,000 square feet, whichever is greater.
- (h) *Garage Design.* This section applies only to attached residential garages which have the vehicle entry facing the front yard; and for purposes of this subsection on a corner lot, the front yard shall only be the frontage of least dimension.
- (1) The width of an attached garage with an entrance facing the front yard shall not exceed 55% of the overall width of the facade of the principal structure (inclusive of the garage);
 - (2) Only one sidewall of the residential portion of the structure shall extend beyond the sidewall of the attached garage.
 - (3) The front face of an attached garage shall not project more than 10 feet beyond the front face of the residential portion of the house.
- (i) *Regulations for Accessory Structures.*
- (1) Accessory structures shall be located behind the front line of the primary structure. For corner lots, accessory structures shall be located behind the front line on each frontage;
 - (2) Accessory structures shall be a minimum distance of 5 feet from any side and rear property line;
 - (3) Accessory structures shall be a minimum distance of 10 feet from any other building or structure on the property;

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- (4) Accessory Structures shall not exceed 1 ½ stories;
- (5) All accessory structures in total shall not exceed a site coverage of 7% of the total lot area nor more than 1,500 square feet of total lot area; and
- (6) Accessory structures shall be of a height not greater than 24 feet and less than that of the primary structure on the lot.
- (j) *Off-street parking facilities.* Parking facilities shall be provided as required or permitted in Article XI of this Ordinance.
- (k) *Construction* is subject to site plan review as provided in Article IV.

(Ord. No. 9410, §§3-5, 7-1-04; Ord. No. 9720, §1, 11-15-07; Ord. No. 9738, §§1-6, 1-17-08)

Sec. A-32. R-2 One-Family Dwelling District.

The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section are the district regulations in the R-2 One-Family Dwelling District.

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes and shall adhere to the minimum lot area specified:
 - (1) Church and similar place of worship (3 acres)
 - (2) Convent, parish house, monastery, and rectory, to be regularly occupied by not more than ten (10) persons (25,000 square feet)
 - (3) Dwelling, one-family (25,000 square feet)
 - (4) Parks, recreation facilities, and museums; publicly owned
 - (5) School, public or private
 - a. Kindergarten and elementary (2 acres plus 1 additional acre per 100 students over 200)
 - b. Junior high (10 acres plus 1 acre per 100 students)
 - c. Senior high (15 acres plus 1 acre per 100 students)
 - (6) Antenna and antenna support structure in accordance with Article X.
- (b) The following accessory uses and structures are permitted, but shall not be constructed upon a lot until the construction of the main building has commenced. Accessory uses and use of accessory structures shall cease immediately upon abandonment of the primary use. Furthermore, accessory structures shall be removed within 90 days after the removal of the primary structure unless a valid building permit is in effect to replace the primary structure:
 - (1) Uses:
 - a. Bed and breakfast establishments
 - b. Family daycare home

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- c. Home occupation
 - d. Non-commercial private workshops, studios, studies, and offices, when part of a garage or storage shed and not containing any kitchen, cooking facilities, fireplace, sleeping area, shower, bathing fixture, or full bath which would include a shower or bathing facility.
 - e. Off-street motor vehicle parking areas
 - f. Temporary uses for construction purposes when a building permit is valid.
- (2) Structures, which shall not include a basement:
- a. Antenna, parabolic, one per lot: Ground-mounted shall not exceed 12 feet above the adjacent ground level or 12 feet in diameter. Building-mounted shall not exceed 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter.
 - b. Antenna, receive-only television (one per lot).
 - c. Antenna and antenna support structure not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC (one per lot).
 - d. Children’s playhouse, garden house, and private greenhouse
 - e. Private garage (one per lot)
 - f. Storage sheds not used for the storage of motor vehicles except lawn and garden equipment (two per lot)
 - g. Temporary buildings and trailers for construction purposes when a building permit is valid.
 - h. In-ground Swimming pools
 - i. Above ground Swimming pools only when meeting the setback requirements of the principal permitted use
 - j. Sundecks, patios, and gazebos
- (c) *Special Uses and Minimum Lot Area Requirements.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
- (1) Artificial lake
 - (2) Crematory or cemetery (40 acres)
 - (3) Country club or golf course (75 acres)
 - (4) Domiciliary Home
 - (5) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (6) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (7) Group day care home and day care center
 - (8) Heliport in conjunction with the operations of a hospital designated as a “Level II Trauma Center” (1 acre)
 - (9) Hospital (5 acres)
 - (10) Museums and historical buildings to preserve a historical residence
 - (11) Nursing Home (3 acres)
 - (12) Private recreational development (25,000 square feet)
 - (13) Private or commercial sewage facility
 - (14) Public or employee off-street parking (25,000 square feet)

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- (15) Antenna support structure in accordance with Article X (25,000 square feet)
 - (16) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri
 - (17) Utility substation (25,000 square feet)
- (d) *Height.* No building other than a church or similar place of worship shall exceed thirty-five (35) feet and 2-1/2 stories in height.
- (e) *Lot Width and Yard Areas.* No building or structure shall be erected or enlarged unless the following lot width and yard requirements are provided and maintained in connection with such building, structure, or enlargement, unless otherwise provided herein.

Cantilever Construction on Single Family Residences. Cantilever overhangs shall not extend into the required front or rear yard setbacks, except architectural features, such as bay windows, dormers, and fireplaces may extend 36 inches into the rear yard setback requirement for a width not to exceed 16 feet and 24 inches into the front yard setback requirement for a width not to exceed 16 feet.

One-family residential structures which were legally constructed and contain front yard, rear yard, or side yard setbacks *which are not in conformance with this code*; the existing front, rear, and/or side yard setbacks of the primary structure which are not in conformity shall be considered as the setbacks for the subject property for the purpose of additions, alterations, and expansions, except that in no case shall the minimum side yard setback be less than five (5) feet. However, construction in front of the existing front yard building line shall be permitted if it satisfies subsection (2)e below.

(1) Lot Width:

- a. Every one-family detached dwelling, convent, monastery, rectory or parish house hereafter erected shall be on a lot having a width at the established front building line of not less than one hundred twenty-five (125) feet.
- b. Churches and similar places of worship hereafter erected shall be on a lot having a width at the front building line of not less than two hundred (200) feet.

(2) Front yard:

- a. There shall be a front yard having a depth of not less than fifty (50) feet.
- b. On a through lot, the required front yard shall be provided on both streets.
- c. On a corner lot, there shall be a front yard on each street.
- d. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40)

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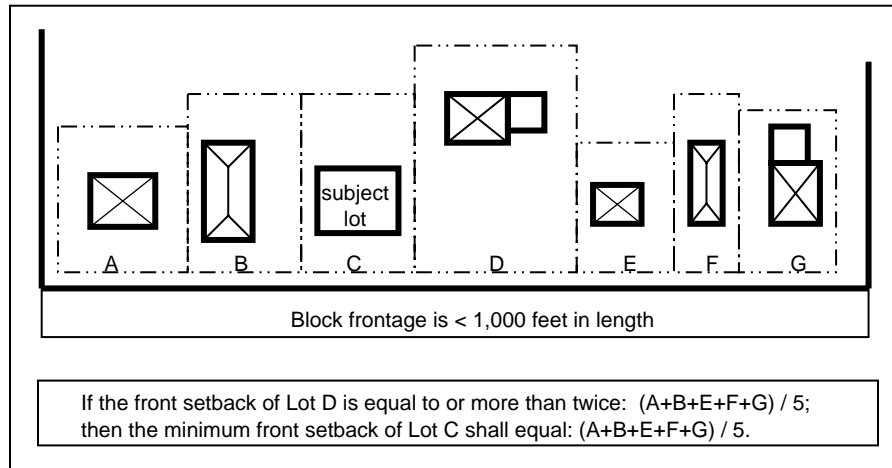
square feet may project into the required front yard for a distance not to exceed four feet.

e. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:

1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.

2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.

3. The front yard setback for a lot located between two improved lots, where the front yard setback of one of the improved lots exceeds the average front yard setback of all other lots on the same side of the block by two times or more, shall be determined by calculating the average of all front yard setbacks on the same side of the block as the subject lot. For blocks which are more than 1,000 feet in length the front yard setback average shall be determined using all lots (or portions thereof) within a distance of **300 feet but not less than three lots** in each direction of the subject lot. These calculations shall exclude the lot with the enlarged setback **from both the 300 feet distance and minimum number of lots parameters.**



(3) Side yard:

a. For one-family detached dwellings and accessory uses thereto, there shall be a side yard on each side of a building having a width of not less than twenty (20) feet.

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- b. On lots used for a church or similar place of worship, there shall be a side yard on each side of a building having a width of not less than thirty (30) feet.
 - c. When a lot of record having a lesser width than is herein required is to be used for a one-family dwelling, the side yard requirement on each side of the building shall be one-sixth (1/6) of the width of the lot, but shall not be less than twelve (12) feet.
 - d. Terraces, uncovered and covered porches, decks, ornamental features, flues, bay windows, cantilevers, stairs to second story or above, mechanical equipment, except air conditioning units, shall meet the side yard setback requirements of the single family residential zoning district, except fireplaces and chimneys may project up to 24 inches into the side yard. Roof overhangs are permitted but shall not exceed 30 inches. Air conditioning unit pads shall be installed against the foundation wall or if not against the foundation wall, as close as possible to the foundation wall as approved by the City. This subsection shall not prevent replacement or repair of existing legal non-conforming encroachments.
- (4) Rear yard
- a. There shall be a rear yard having a depth of not less than forty-five (45) feet. In computing the depth of a rear yard, where such yard opens onto an alley, one-half (1/2) of the alley width may be included as a portion of the rear yard.
 - b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.
 - c. An unenclosed porch not more than one story in height or paved terrace may project into the required rear yard for a distance not exceeding ten (10) feet.
- (f) *Lot Coverage.* The lot coverage, including accessory buildings, shall not exceed:
- (1) For lots 7,500 square feet or less in area, 30% or 1,750 square feet, whichever is greater; or
 - (2) For lots greater than 7,500 square feet in area, 25% or 2,250 square feet, whichever is greater; or
 - (3) Exception for single-family residences of 1-1/2 stories or less:
 - (a) For lots 7,500 square feet or less in area, 35%; or
 - (b) For lots greater than 7,500 square feet in area, 30% or 2,625 square feet, whichever is greater.
- (g) *Floor Area Ratio.* The Floor Area Ratio for a single-family detached residence shall not exceed:

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- (1) For lots 10,000 square feet or less in area, 0.35 or 2,250 square feet, whichever is greater; or
 - (2) For lots greater than 10,000 but less than 20,000 square feet in area, 0.30 or 3,500 square feet, whichever is greater; or
 - (3) For lots 20,000 square feet or greater, 0.25 or 6,000 square feet, whichever is greater.
- (h) *Garage Design.* This section applies only to attached residential garages which have the vehicle entry facing the front yard; and for purposes of this subsection on a corner lot, the front yard shall only be the frontage of least dimension.
- (1) The width of an attached garage with an entrance facing the front yard shall not exceed 55% of the overall width of the facade of the principal structure (inclusive of the garage);
 - (2) Only one sidewall of the residential portion of the structure shall extend beyond the sidewall of the attached garage.
 - (3) The front face of an attached garage shall not project more than 10 feet beyond the front face of the residential portion of the house.
- (i) *Regulations for Accessory Structures.*
- (1) Accessory structures shall be located behind the front line of the primary structure. For corner lots, accessory structures shall be located behind the front line on each frontage;
 - (2) Accessory structures shall be a minimum distance of 5 feet from any side and rear property line;
 - (5) Accessory structures shall be a minimum distance of 10 feet from any other building or structure on the property;
 - (6) Accessory Structures shall not exceed 1 ½ stories;
 - (5) All accessory structures in total shall not exceed a site coverage of 7% of the total lot area nor more than 1,500 square feet of total lot area; and
 - (6) Accessory structures shall be of a height not greater than 24 feet and less than that of the primary structure on the lot.
- (j) *Off-street parking facilities.* Parking facilities shall be provided as required or permitted in Article XI of this Ordinance.
- (k) *Construction* issues subject to site plan review as provided in Article IV.

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(Ord. No. 9410, §§3-5, 7-1-04; Ord. No. 9720, §2, 11-15-07; Ord. No. 9738, §§1-6, 1-17-08)

Sec. A-33. R-3 One-Family Dwelling District.

The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section are the district regulations in the R-3 One-Family Dwelling District.

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes and shall adhere to the minimum lot area specified:
 - (1) Church and similar place of worship (3 acres)
 - (2) Convent, parish house, monastery, and rectory, to be regularly occupied by not more than ten (10) persons (15,000 square feet)
 - (3) Dwelling, One-family (15,000 square feet)
 - (4) Parks, recreation facilities, and museums; publicly owned
 - (5) School, public or private
 - a. Kindergarten and elementary (2 acres plus 1 additional acre per 100 students over 200)
 - b. Junior high (10 acres plus 1 acre per 100 students)
 - c. Senior high (15 acres plus 1 acre per 100 students)
 - (6) Antenna and antenna support structure in accordance with Article X
- (b) The following accessory uses and structures are permitted, but shall not be constructed upon a lot until the construction of the main building has commenced. Accessory uses and use of accessory structures shall cease immediately upon abandonment of the primary use. Furthermore, accessory structures shall be removed within 90 days after the removal of the primary structure unless a valid building permit is in effect to replace the primary structure:
 - (1) Uses:
 - a. Bed and breakfast establishments
 - b. Family daycare home
 - c. Home occupation
 - d. Non-commercial private workshops, studios, studies, and offices, when part of a garage or storage shed and not containing any kitchen, cooking facilities, fireplace, sleeping area, shower, bathing fixture, or full bath which would include a shower or bathing facility.
 - e. Off-street motor vehicle parking areas
 - f. Temporary uses for construction purposes when a building permit is valid.
 - (2) Structures, which shall not include a basement:
 - a. Antenna, parabolic, one per lot: Ground-mounted shall not exceed 12 feet above the adjacent ground level or 12 feet in diameter. Building-mounted shall not exceed 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter.
 - b. Antenna, receive-only television (one per lot).
 - c. Antenna and antenna support structure not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC (one per lot).

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- d. Children’s playhouse, garden house, and private greenhouse
 - e. Private garage (one per lot)
 - f. Storage sheds not used for the storage of motor vehicles except lawn and garden equipment (two per lot)
 - g. Temporary buildings and trailers for construction purposes when a building permit is valid.
 - h. In-ground Swimming pools
 - i. Above ground Swimming pools only when meeting the setback requirements of the principal permitted use
 - j. Sundecks, patios, and gazebos
- (c) *Special Uses and Minimum Lot Area Requirements.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
- (1) Artificial lake
 - (2) Continuing Care Retirement Facility; parking and building height requirements will be established by the Planning and Zoning Commission and subject to approval of the City Council (10 acres)
 - (2) Crematory or cemetery (40 acres)
 - (3) Country club or golf course (75 acres)
 - (4) Domiciliary Home
 - (5) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (6) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (7) Group day care home and day care center
 - (8) Heliport in conjunction with the operations of a hospital designated as a “Level II Trauma Center” (1 acre)
 - (9) Hospital (5 acres)
 - (10) Museums and historical buildings to preserve a historical residence
 - (11) Nursing Home (3 acres)
 - (12) Private recreational development (15,000 square feet)
 - (13) Private or commercial sewage facility
 - (14) Public or employee off-street parking (15,000 square feet)
 - (15) Antenna support structure in accordance with Article X (15,000 square feet)
 - (16) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri
 - (17) Utility substation (15,000 square feet)
- (d) *Height.* No building other than a church or similar place of worship shall exceed thirty-five (35) feet and 2-1/2 stories in height.
- (e) *Lot Width and Yard Areas.* No building or structure shall be erected or enlarged unless the following lot width and yard requirements are provided and maintained in connection with such building, structure, or enlargement, unless otherwise provided herein.

Cantilever Construction on Single Family Residences. Cantilever overhangs shall not extend into the required front or rear yard setbacks, except architectural features, such as bay

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windows, dormers, and fireplaces may extend 36 inches into the rear yard setback requirement for a width not to exceed 16 feet and 24 inches into the front yard setback requirement for a width not to exceed 16 feet.

One-family residential structures which were legally constructed and contain front yard, rear yard or side yard setbacks *which are not in conformance with this code*; the existing front, rear and/or side yard setbacks of the primary structure which are not in conformity shall be considered as the setbacks for the subject property for the purpose of additions, alterations, and expansions, except that in no case shall the minimum side yard setback be less than five (5) feet. However, construction in front of the existing front yard building line shall be permitted if it satisfies subsection (2)e below.

(1) Lot Width:

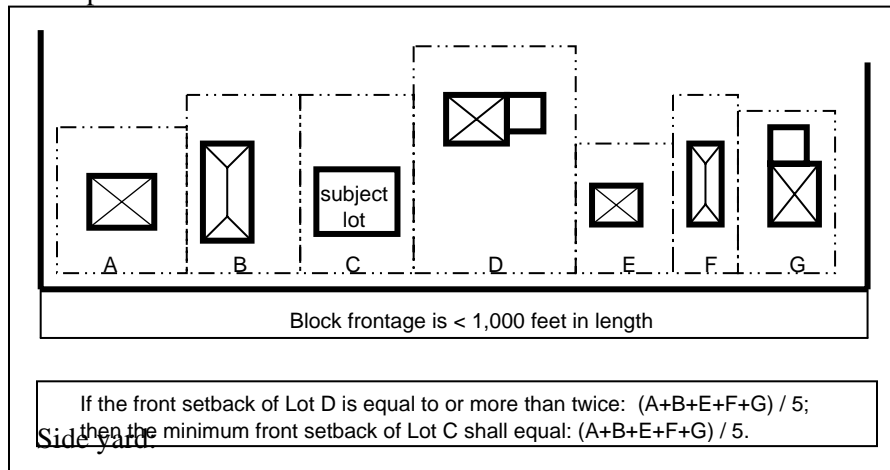
- a. Every one-family detached dwelling, convent, monastery, rectory or parish house hereafter erected shall be on a lot having a width at the established front building line of not less than one hundred (100) feet.
- b. Churches and similar places of worship hereafter erected shall be on a lot having a width at the front building line of not less than two hundred (200) feet.

(2) Front yard:

- a. There shall be a front yard having a depth of not less than forty (40) feet.
- b. On a through lot, the required front yard shall be provided on both streets.
- c. On a corner lot, there shall be a front yard on each street.
- d. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard for a distance not to exceed four feet.
- e. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:
 1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.
 2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.

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3. The front yard setback for a lot located between two improved lots, where the front yard setback of one of the improved lots exceeds the average front yard setback of all other lots on the same side of the block by two times or more, shall be determined by calculating the average of all front yard setbacks on the same side of the block as the subject lot. For blocks which are more than 1,000 feet in length the front yard setback average shall be determined using all lots (or portions thereof) within a distance of 300 feet but not less than three lots in each direction of the subject lot. These calculations shall exclude the lot with the enlarged setback from both the 300 feet distance and minimum number of lots parameters.



(3)

- Side yard.
- a. For one-family detached dwellings and accessory uses thereto, there shall be a side yard on each side of a building having a width of not less than twelve (12) feet.
 - b. On lots used for a church or similar place of worship, there shall be a side yard on each side of a building having a width of not less than thirty (30) feet.
 - c. When a lot of record having a lesser width than is herein required is to be used for a one-family dwelling, the side yard requirement on each side of the building shall be twelve (12) feet, except that the buildable width of the lot need not be reduced below sixty (60) percent of the actual width of the lot.
 - d. Terraces, uncovered and covered porches, decks, ornamental features, flues, bay windows, cantilevers, stairs to second story or above, mechanical equipment, except air conditioning units, shall meet the side yard setback requirements of the single family residential zoning district, except fireplaces and chimneys may project up to 24 inches into the side yard. Roof overhangs are permitted but shall not exceed 30 inches. Air conditioning unit pads shall be installed against the foundation wall or if not against the foundation wall, as close as possible to the foundation wall as approved by the City. This subsection shall not prevent replacement or repair of existing legal non-conforming encroachments.

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- (4) Rear yard:
- a. There shall be a rear yard having a depth of not less than thirty-five (35) feet. In computing the depth of a rear yard, where such yard opens onto an alley, one-half ($\frac{1}{2}$) of the alley width may be included as a portion of the rear yard.
 - b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.
 - c. An unenclosed porch not more than one story in height or paved terrace may project into the required rear yard for a distance not exceeding ten feet.
- (f) *Lot Coverage.* The lot coverage, including accessory buildings, shall not exceed:
- (1) For lots 7,500 square feet or less in area, 30% or 1,750 square feet, whichever is greater; or
 - (2) For lots greater than 7,500 square feet in area, 25% or 2,250 square feet, whichever is greater; or
 - (3) Exception for single-family residences of 1-1/2 stories or less:
 - (a) For lots 7,500 square feet or less in area, 35%; or
 - (b) For lots greater than 7,500 square feet in area, 30% or 2,625 square feet, whichever is greater.
- (g) *Floor Area Ratio.* The Floor Area Ratio for a single-family detached residence shall not exceed:
- (1) For lots 10,000 square feet or less in area, 0.35 or 2,250 square feet, whichever is greater; or
 - (2) For lots greater than 10,000 but less than 20,000 square feet in area, 0.30 or 3,500 square feet, whichever is greater; or
 - (3) For lots 20,000 square feet or greater, 0.25 or 6,000 square feet, whichever is greater.
- (h) *Garage Design.* This section applies only to attached residential garages which have the vehicle entry facing the front yard; and for purposes of this subsection on a corner lot, the front yard shall only be the frontage of least dimension.
- (1) The width of an attached garage with an entrance facing the front yard shall not exceed 55% of the overall width of the facade of the principal structure (inclusive of the garage);
 - (2) Only one sidewall of the residential portion of the structure shall extend beyond the sidewall of the attached garage.

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- (3) The front face of an attached garage shall not project more than 10 feet beyond the front face of the residential portion of the house.
- (i) *Regulations for Accessory Structures.*
 - (1) Accessory structures shall be located behind the front line of the primary structure. For corner lots, accessory structures shall be located behind the front line on each frontage;
 - (2) Accessory structures shall be a minimum distance of 5 feet from any side and rear property line;
 - (7) Accessory structures shall be a minimum distance of 10 feet from any other building or structure on the property;
 - (8) Accessory Structures shall not exceed 1 ½ stories;
 - (5) All accessory structures in total shall not exceed a site coverage of 7% of the total lot area nor more than 1,500 square feet of total lot area; and
 - (6) Accessory structures shall be of a height not greater than 24 feet and less than that of the primary structure on the lot.
- (j) *Off-street parking facilities.* Parking facilities shall be provided as required or permitted in Article XI of this Ordinance.
- (k) *Construction* is subject to site plan review as provided in Article IV.

Ord. No. 9410, §§3-5, 7-1-04; Ord. No. 9700, §2, 9-20-07; Ord. No. 9720, §3, 11-15-07; Ord. No. 9738, §§1-6, 1-17-08)

Sec. A-34. R-4 One-Family Dwelling District.

The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section are the district regulations in the R-4 One-Family Dwelling District.

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes and shall adhere to the minimum lot area specified:
 - (1) Church and similar place of worship (3 Acres)
 - (2) Convent, parish house, monastery, and rectory, to be regularly occupied by not more than ten (10) persons (15,000 square feet)
 - (3) Dwelling, One-family (7,500 square feet)
 - (4) Parks, recreation facilities, and museums; publicly owned
 - (5) School, public or private
 - a. Kindergarten and elementary (2 acres plus 1 additional acre per 100 students over 200)
 - b. Junior high (10 acres plus 1 acre per 100 students)

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- c. Senior high (15 acres plus 1 acre per 100 students)
 - (6) Antenna and antenna support structure in accordance with Article X
- (b) The following accessory uses and structures are permitted, but shall not be constructed upon a lot until the construction of the main building has commenced. Accessory uses and use of accessory structures shall cease immediately upon abandonment of the primary use. Furthermore, accessory structures shall be removed within 90 days after the removal of the primary structure unless a valid building permit is in effect to replace the primary structure:
 - (1) Uses:
 - a. Bed and breakfast establishments
 - b. Family daycare home
 - c. Home occupation
 - d. Non-commercial private workshops, studios, studies, and offices, when part of a garage or storage shed and not containing any kitchen, cooking facilities, fireplace, sleeping area, shower, bathing fixture, or full bath which would include a shower or bathing facility.
 - e. Off-street motor vehicle parking areas
 - f. Temporary uses for construction purposes when a building permit is valid.
 - (2) Structures, which shall not include a basement:
 - a. Antenna, parabolic, one per lot: Ground-mounted shall not exceed 12 feet above the adjacent ground level or 12 feet in diameter. Building-mounted shall not exceed 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter.
 - b. Antenna, receive-only television (one per lot).
 - c. Antenna and antenna support structure not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC (one per lot).
 - d. Children's playhouse, garden house, and private greenhouse
 - e. Private garage (one per lot)
 - f. Storage sheds not used for the storage of motor vehicles except lawn and garden equipment (two per lot)
 - g. Temporary buildings and trailers for construction purposes when a building permit is valid.
 - h. In-ground Swimming pools
 - i. Above ground Swimming pools only when meeting the setback requirements of the principal permitted use
 - j. Sundecks, patios, and gazebos
- (c) *Special Uses and Minimum Lot Area Requirements.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
 - (1) Artificial lake
 - (2) Crematory or cemetery (40 acres)
 - (3) Domiciliary Home

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- (4) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (5) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (6) Group day care home and day care center
 - (7) Heliport in conjunction with the operations of a hospital designated as a “Level II Trauma Center” (1 acre)
 - (8) Hospital (5 acres)
 - (9) Museums and historical buildings to preserve a historical residence
 - (10) Nursing Home (3 acres)
 - (11) Private recreational development (15,000 square feet)
 - (12) Private or commercial sewage facility
 - (13) Public or employee off-street parking (7,500 square feet)
 - (14) Antenna support structure in accordance with Article X (7,500 square feet)
 - (15) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri
 - (16) Utility substation (7,500 square feet)
- (d) *Height.* No building other than a church or similar place of worship shall exceed thirty-five (35) feet and 2-1/2 stories in height.
- (e) *Lot Width and Yard Areas.* No building or structure shall be erected or enlarged unless the following lot width and yard requirements are provided and maintained in connection with such building, structure, or enlargement, unless otherwise provided herein.

Cantilever Construction on Single Family Residences. Cantilever overhangs shall not extend into the required front or rear yard setbacks, except architectural features, such as bay windows, dormers, and fireplaces may extend 36 inches into the rear yard setback requirement for a width not to exceed 16 feet and 24 inches into the front yard setback requirement for a width not to exceed 16 feet.

One-family residential structures which were legally constructed and contain front yard, rear yard, or side yard setbacks *which are not in conformance with this code*; the existing front, rear, and/or side yard setbacks of the primary structure which are not in conformity shall be considered as the setbacks for the subject property for the purpose of additions, alterations, and expansions, except that in no case shall the minimum side yard setback be less than five (5) feet. However, construction in front of the existing front yard building line shall be permitted if it satisfies subsection (2)e below.

- (1) Lot Width:
 - a. Every one-family detached dwelling, convent, monastery, rectory or parish house hereafter erected shall be on a lot having a width at the established front building line of not less than sixty (60) feet.
 - b. Churches and similar places of worship hereafter erected shall be on a lot having a width at the front building line of not less than two hundred (200) feet.

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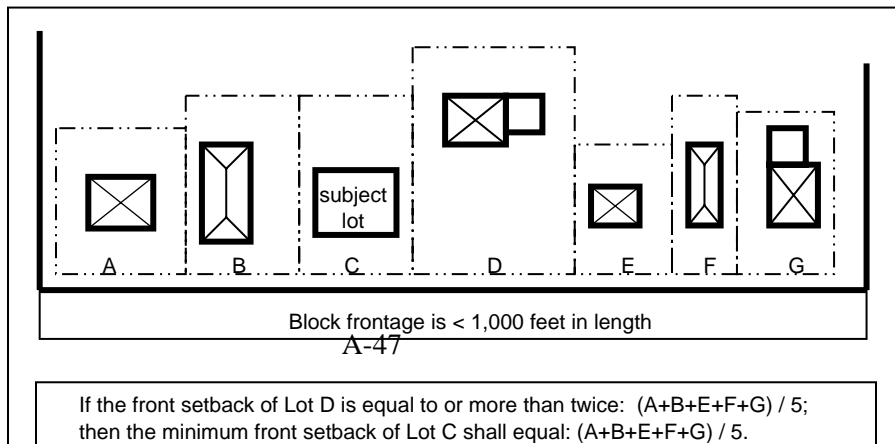
(2) Front yard:

- a. There shall be a front yard having a depth of not less than thirty-five (35) feet, except in blocks which have been developed previously with a lesser depth, that depth shall apply, but not less than twenty (20) feet.
- b. On a through lot, the required front yard shall be provided on both streets.
- c. On a corner lot, there shall be a front yard on each street.
- d. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard for a distance not to exceed four feet.
- e. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:

1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.

2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.

3. The front yard setback for a lot located between two improved lots, where the front yard setback of one of the improved lots exceeds the average front yard setback of all other lots on the same side of the block by two times or more, shall be determined by calculating the average of all front yard setbacks on the same side of the block as the subject lot. For blocks which are more than 1,000 feet in length the front yard setback average shall be determined using all lots (or portions thereof) within a distance of **300 feet but not less than three lots** in each direction of the subject lot. These calculations shall exclude the lot with the enlarged setback **from both the 300 feet distance and minimum number of lots parameters.**



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(3) Side yard:

- a. For one-family detached dwellings and accessory uses thereto, there shall be a side yard on each side of a building having a width of not less than eight (8) feet.
- b. On lots used for a church or similar place of worship, there shall be a side yard on each side of a building having a width of not less than thirty (30) feet.
- c. When a lot of record having a lesser width than is herein required is to be used for a one-family dwelling, the side yard requirement on each side of the building shall not be less than five (5) feet.
- d. Terraces, uncovered and covered porches, decks, ornamental features, flues, bay windows, cantilevers, stairs to second story or above, mechanical equipment, except air conditioning units, shall meet the side yard setback requirements of the single family residential zoning district, except fireplaces and chimneys may project up to 24 inches into the side yard. Roof overhangs are permitted but shall not exceed 30 inches. Air conditioning unit pads shall be installed against the foundation wall or if not against the foundation wall, as close as possible to the foundation wall as approved by the City. This subsection shall not prevent replacement or repair of existing legal non-conforming encroachments.

(4) Rear yard:

- a. There shall be a rear yard having a depth of not less than thirty (30) feet. In computing the depth of a rear yard, where such yard opens onto an alley, one-half (½) of the alley width may be included as a portion of the rear yard.
- b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.
- c. An unenclosed porch not more than one story in height or paved terrace may project into the required rear yard for a distance not exceeding ten (10) feet.

(f) *Lot Coverage.* The lot coverage, including accessory buildings, shall not exceed:

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- (1) For lots 7,500 square feet or less in area, 30% or 1,750 square feet, whichever is greater; or
 - (2) For lots greater than 7,500 square feet in area, 25% or 2,250 square feet, whichever is greater; or
 - (3) Exception for single-family residences of 1-1/2 stories or less:
 - (a) For lots 7,500 square feet or less in area, 35%; or
 - (b) For lots greater than 7,500 square feet in area, 30% or 2,625 square feet, whichever is greater.
- (g) *Floor Area Ratio.* The Floor Area Ratio for a single-family detached residence shall not exceed:
- (1) For lots 10,000 square feet or less in area, 0.35 or 2,250 square feet, whichever is greater; or
 - (2) For lots greater than 10,000 but less than 20,000 square feet in area, 0.30 or 3,500 square feet, whichever is greater; or
 - (3) For lots 20,000 square feet or greater, 0.25 or 6,000 square feet, whichever is greater.
- (h) *Garage Design.* This section applies only to attached residential garages which have the vehicle entry facing the front yard; and for purposes of this subsection on a corner lot, the front yard shall only be the frontage of least dimension.
- (1) The width of an attached garage with an entrance facing the front yard shall not exceed 55% of the overall width of the facade of the principal structure (inclusive of the garage);
 - (2) Only one sidewall of the residential portion of the structure shall extend beyond the sidewall of the attached garage.
 - (3) The front face of an attached garage shall not project more than 10 feet beyond the front face of the residential portion of the house.
- (i) *Regulations for Accessory Structures.*
- (1) Accessory structures shall be located behind the front line of the primary structure. For corner lots, accessory structures shall be located behind the front line on each frontage;
 - (2) Accessory structures shall be a minimum distance of 5 feet from any side and rear property line;
 - (9) Accessory structures shall be a minimum distance of 10 feet from any other building or structure on the property;

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- (10) Accessory Structures shall not exceed 1 ½ stories;
- (5) All accessory structures in total shall not exceed a site coverage of 7% of the total lot area nor more than 1,500 square feet of total lot area; and
- (6) Accessory structures shall be of a height not greater than 24 feet and less than that of the primary structure on the lot.
- (j) *Off-street parking facilities.* Parking facilities shall be provided as required or permitted in Article XI of this *Ordinance*, except on lots fifty (50) feet or less in width only one parking space behind the front building line is required for each dwelling unit.
- (k) *Construction* is subject to site plan review as provided in Article IV.

(Ord. No. 9410, §§3-5, 7-1-04; Ord. No. 9720, §4, 11-15-07; Ord. No. 9738, §§1-6, 1-17-08)

Sec. A-35. R-5 Multiple-Family Dwelling District.

The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section are the District regulations in the R-5 Multiple-Family Dwelling District.

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes and shall adhere to the minimum lot area specified:
 - (1) Church and similar place of worship (3 acres)
 - (2) Convent, parish house, monastery, and rectory, to be regularly occupied by not more than ten (10) persons (7,500 square feet)
 - (3) Dwelling, One-family (7,500 square feet)
 - (4) Multiple family dwellings with not more than (4) dwelling units per building for one story buildings; with not more than (8) dwelling units per building for two-story buildings; and with not more than (12) dwelling units per building for three story buildings. (2,000 square feet per unit)
 - (5) One-family row dwellings with not more than eight (8) dwelling units in one building. (2,000 square feet per unit)
 - (6) Parks, recreation facilities, and museums; publicly owned
 - (7) Private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is a service customarily carried on as a business.
 - (8) School, public or private
 - a. Kindergarten and elementary (2 acres plus 1 additional acre per 100 students over 200)
 - b. Junior high (10 acres plus 1 acre per 100 students)
 - c. Senior high (15 acres plus 1 acre per 100 students)
 - (9) Two-family dwelling (7,500 square feet)
 - (10) Antenna and antenna support structure in accordance with Article X
- (b) The following accessory uses and structures are permitted, but shall not be constructed upon a lot until the construction of the main building has commenced. Accessory uses and use of accessory structures shall cease immediately upon abandonment of the primary use. Furthermore, accessory structures shall be removed within 90 days after the

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removal of the primary structure unless a valid building permit is in effect to replace the primary structure:

- (1) Uses:
 - a. Bed and breakfast establishments
 - b. Family daycare home
 - c. Home occupation
 - d. Non-commercial private workshops, studios, studies, and offices, when part of a garage or storage shed and not containing any kitchen, cooking facilities, fireplace, sleeping area, shower, bathing fixture, or full bath which would include a shower or bathing facility.
 - e. Off-street motor vehicle parking areas
 - f. Temporary uses for construction purposes when a building permit is valid.

- (2) Structures, which shall not include a basement:
 - a. Antenna, parabolic, one per lot: Ground-mounted shall not exceed 12 feet above the adjacent ground level or 12 feet in diameter. Building-mounted shall not exceed 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter.
 - b. Antenna, receive-only television (one per lot).
 - c. Antenna and antenna support structure not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC (one per lot).
 - d. Children's playhouse, garden house, and private greenhouse
 - e. Private garage
 - f. Storage sheds not used for the storage of motor vehicles except lawn and garden equipment
 - g. Temporary buildings and trailers for construction purposes when a building permit is valid.
 - h. In-ground Swimming pools
 - i. Above ground Swimming pools only when meeting the setback requirements of the principal permitted use
 - j. Sundecks, patios, and gazebos

- (c) *Special Uses and Minimum Lot Area Requirements.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
 - (1) Artificial lake
 - (2) Crematory or cemetery (40 acres)
 - (3) Domiciliary Home
 - (4) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (5) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (6) Group day care home and day care center

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- (7) Heliport in conjunction with the operations of a hospital designated as a “Level II Trauma Center” (1 acre)
 - (8) Hospital (5 acres)
 - (9) Museums and historical buildings
 - (10) Nursing Home (3 acres)
Offices of an architect, dentist, engineer, lawyer, physician, accountant, or other similar occupation or profession provided such building in which such office is to be located is within one hundred (100) feet of a B-4 zoning district and is upon a lot that is contiguous to such zoning district and located with frontage upon Kirkwood Road. Such permits granted hereunder shall not be transferable.
 - (11) Private recreational development (15,000 square feet)
 - (12) Private or commercial sewage facility
 - (13) Public or employee off-street parking (7,500 square feet)
 - (14) Antenna support structure in accordance with Article X (7,500 square feet)
 - (15) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri
 - (16) Utility substation (7,500 square feet)
- (d) *Height.* No building shall exceed three stories or 35 feet in height.
- (e) *Lot Width and Yard Areas.* No building or structure shall be erected or enlarged unless the following lot width and yard requirements are provided and maintained in connection with such building, structure, or enlargement, unless otherwise provided herein.

Exceptions: (i) The ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twelve (12) inches; and (ii) the ordinary projections of chimneys and flues.

One-family residential structures which were legally constructed and contain front yard, rear yard, or side yard setbacks *which are not in conformance with this code*; the existing front, rear, and/or side yard setbacks of the primary structure which are not in conformity shall be considered as the setbacks for the subject property for the purpose of additions, alterations, and expansions, except that in no case shall the minimum side yard setback be less than five (5) feet. However, construction in front of the existing front yard building line shall be permitted if it satisfies subsection (2)e below.

- (1) Lot Width:
 - a. Every one-family detached dwelling, convent, monastery, rectory or parish house hereafter erected shall be on a lot having a width at the established front building line of not less than sixty (60) feet.
 - b. Churches and similar places of worship hereafter erected shall be on a lot having a width at the front building line of not less than two hundred (200) feet.
 - c. Two-family dwellings, multiple family dwellings, and row dwellings hereafter erected or structurally altered as a multi-family dwelling or as a

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row dwelling shall provide a lot width at the front building line of not less than sixty (60) feet.

(2) Front yard:

- a. There shall be a front yard having a depth of not less than thirty-five (35) feet.
- b. On a through lot, the required front yard shall be provided on both streets.
- c. On a corner lot, there shall be a front yard on each street.
- d. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard for a distance not to exceed four feet.
- e. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:

1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.

2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.

(3) Side yard:

- a. There shall be a side yard on each side of a building having a width of not less than eight (8) feet.
- b. On lots used for a church or similar place of worship, there shall be a side yard on each side of a building having a width of not less than thirty (30) feet.
- c. When a lot of record having a width less than sixty (60) feet is to be used for a one-family dwelling, the side yard requirement on each side of the building shall not be less than five (5) feet.
- d. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet above grade may project into a required yard, but not closer than two (2) feet to the adjacent side lot line.

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- (4) Rear yard
- a. There shall be a rear yard having a depth of not less than thirty (30) feet. In computing the depth of a rear yard, where such yard opens onto an alley, one-half (½) of the alley width may be included as a portion of the rear yard.
 - b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.
 - c. An unenclosed porch not more than one story in height or paved terrace may project into the required rear yard for a distance not exceeding ten (10) feet.
- (5) Where more than one multi-family dwelling or row dwelling is erected on a single lot the minimum distance between main buildings shall be as follows:

	Front	Side	Rear
Front	50 feet, plus an additional 10 feet for each building more than 2 stories	30 feet, except only 20 feet if side wall has no windows	70 feet
Side	30 feet, except only 20 feet if side wall has no windows	20 feet	30 feet
Rear	70 feet	30 feet	50 feet

- (f) *Percentage of lot coverage.* The coverage of all buildings, including accessory buildings, shall not be more than forty (40) percent.
- (g) *Dwelling standards.* Each building erected, converted, or reconstructed in an "R-5 Multiple Dwelling District" shall have a minimum floor area as follows:
- (1) One family dwellings, two family dwellings, and row dwellings, one story in height, 850 square feet per dwelling unit, measured from the outside of the exterior walls, but excluding cellars, basements, open porches, breezeways, carports and garages, common entrances and halls.
 - (2) One family dwellings and two family dwellings and row dwellings more than one story in height: 600 square feet per floor, but excluding cellars, basements, open porches, breezeways, carports, and garages, common entrance and halls.
 - (3) Multi-family dwellings: 600 square feet per dwelling unit measured from the outside of the exterior walls, but excluding cellars, basements, open porches, breezeways, carports and garages, common entrance and halls.

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- (h) *Height, Lot, and Yard Requirements for Accessory Structures.*
- (1) Accessory structures shall be located behind the front line of the primary structure. For corner lots, accessory structures shall be located behind the front line on each frontage.
 - (2) Accessory structures shall be a minimum distance of five (5) feet from any side and rear property line;
 - (3) All accessory structures in total shall not exceed a site coverage of seven (7) percent of the total lot area nor more than 1,500 square feet of total lot area;
 - (4) Accessory structures shall be of a height less than that of the primary structure established on the lot or 1-1/2 stories, whichever is less; and
 - (5) Accessory structures shall be a minimum distance of five (5) feet from any other building or structure on the property.
- (i) *Off-street parking and loading facilities.* Off-street parking and loading facilities shall be provided as required in Article XI of this Ordinance except on lots fifty (50) feet or less in width and serving single-family dwellings, only one parking space behind the front building line is required for each dwelling unit.
- (j) *Construction* is subject to site plan review as provided in Article IV.

(Ord. No. 9720, §5, 11-15-07)

Sec. A-36. R-6 Multiple-Family Dwelling District.

The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section are the District regulations in the R-6 Multiple Family Dwelling District.

Permitted uses. A building or premises shall be used only through the application of Article XII, Section 4, Community Unit Plan Type C.

Secs. A-37.—A-40. Reserved.

(Ord. No. 8561, §4, 11-7-96; Ord. No. 8851, §§1-5, 9-2-99)

ARTICLE VI. PROVISIONS GOVERNING BUSINESS DISTRICTS

Sec. A-41. B-1 Neighborhood Business District.

Within B-1 Neighborhood Business District, the following regulations shall apply:

- (a) *Permitted uses.* No permitted uses in this district. Some uses are allowed under special use permit provisions.
- (b) *Accessory Uses.* The following accessory uses and structures are permitted as accessory to approved special use permits and shall not be constructed upon a lot until the construction of the main building has been actually commenced:

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- (1) Antennas, one per lot meeting the following criteria:
 - a. Parabolic, ground mounted, not exceeding 12 feet above the adjacent ground level or 12 feet in diameter
 - b. Parabolic, building mounted, not exceeding 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter
 - c. Receive-only television antenna
 - d. Antenna and antenna support structure, not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC.
 - (2) Off-street motor vehicle parking areas and loading and unloading areas.
 - (3) Temporary buildings and uses for construction purposes for a period not to exceed one year
 - (4) Storage of merchandise normally carried in stock on the same lot with any retail service or business use unless such storage is excluded by the district regulations.
- (c) *Special Uses.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified: A building or premises shall be used only for the following purposes and except for automobile off-street parking and loading facilities, all activities relating to any such use shall be conducted wholly within an enclosed building, except (i) as specifically permitted herein; or (ii) upon City Council approval of a Special Use Exception specifying such outdoor use; or (iii) upon application approved by the City Council for a temporary unenclosed use that may be permitted from time to time after application is made to and approved by the city council and after a finding by the City Council that the general welfare is not adversely affected.
- (1) Art, book, school supply and stationery stores
 - (2) Barbershop, beauty parlor
 - (3) Churches and similar places of worship
 - (4) Drugstores
 - (5) Florist shop
 - (6) Food store
 - (7) Gift stores
 - (8) Learning center
 - (9) Massage Therapy
 - (10) Meat markets
 - (11) Newsstands
 - (12) Offices, business and professional
 - (13) Tobacco stores
 - (14) Antenna and antenna support structure in accordance with Article X
 - (15) Artificial lake
 - (16) Convenience store
 - (17) Domiciliary home
 - (18) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (19) Group day care homes and day care center
 - (20) Interior decorating shops
 - (21) Museums and historical buildings

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- (22) Nursing home (1 acre)
 - (23) Outdoor use
 - (24) Public or employee off-street parking areas (4,000 square feet)
 - (25) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri.
 - (26) Utility substation
 - (27) Residential uses in the second story of commercial buildings
- (d) *Height.* No building or structure shall exceed two (2) stories or twenty-five (25) feet in height.
- (e) *Yard areas.* More than one commercial or institutional building may be erected upon a single lot but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such building, nor shall there be any change in the intensity of use requirements. No building or structure shall be constructed or enlarged unless the following yards are provided and maintained in connection with such building, unless otherwise provided herein.

Exception: (i) The ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twelve (12) inches; (ii) open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five feet; and (iii) the ordinary projections of chimneys and flues.

(1) Front yard:

- a. A front yard of thirty-five (35) feet shall be required when all the frontage surrounding the lot or tract of land lies within this district, however when lots or tracts of land within this district are adjacent to and adjoining lots in an "R" dwelling district, all having the same frontage, there shall be established the same front yard setback for all of the frontages as has been established in the abutting "R" dwelling district.
- b. On a corner lot there shall be a front yard on each street side of such corner lot in accordance with the provisions of subparagraph a. above.
- c. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty square feet may project into the required front yard for a distance not to exceed four feet.
- d. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:
 - 1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.

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2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.
- (2) Side yard:
 - a. No side yard is required except for a lot which abuts upon a "R" dwelling district, or upon an alley separating this district from an "R" dwelling district. In either of such events, there shall be provided a side yard equal to that required in the abutting "R" dwelling district.
 - b. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet above grade may project into a required yard, but not closer than two (2) feet to the adjacent side lot line.
 - (3) Rear yard:
 - a. There shall be a rear yard of not less than twenty-five (25) feet, provided, however, that a one-story accessory building may be located thereon, except for the five feet adjacent and parallel to the rear lot line or alley line, for the storage of motor vehicles and the unloading and loading of vehicles under roof as provided in Article XI of this Ordinance. In computing the depth of a rear yard, where such yard opens onto an alley, one-half (½) of the alley width may be included as a portion of the rear yard.
 - b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.
 - c. An unenclosed porch not more than one story in height or paved terrace may project into the required rear yard for a distance not exceeding ten feet.
 - (4) Screening. Where rear yard or side yard abuts an "R" dwelling district, a structurally sound wall or fence or a five foot wide planting screen shall be provided and maintained.
- (f) *Height, Lot, and Yard Requirements for Accessory Structures*
- (1) Accessory structures shall be located behind the front line of the primary structure. For corner lots, accessory structures shall be located behind the front line on each frontage.
 - (2) Maintain a minimum distance of five (5) feet from any side and rear property line, unless attached to the principal building on the property;

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- (3) Maintain a maximum site coverage of seven (7) percent of the total lot area nor more than 1,500 square feet of total lot area;
 - (4) Maintain a height less than that of the primary structure established on the lot or 1-1/2 stories, whichever is less; and
 - (5) Maintain a minimum distance of 5 feet between any other building on the property, unless attached to the principal building on the property.
- (g) *Off street parking and loading facilities.* Shall be provided as required in Article XI of this Ordinance.
- (h) *Sidewalks.* Sidewalks shall be required along streets on public rights-of-way as a condition of the issuance of any building permit for structures within this district. The planning and zoning commission *may* waive such requirement upon application by the affected party, subject to final review by the city council if requested by the building commissioner or party in interest.
- (i) *Construction* is subject to site plan review as outlined in Article IV.

(Ord. No. 9720, §6, 11-15-07; Ord. No. 9921, §2, 5-20-10)

Sec. A-42. B-2 General Business District (Central Business District).

Within the B-2 General Business District, the following regulations shall apply except that commercial uses are not permitted in residential units that were approved for residential use as part of a mixed-use development plan, except for home occupations as defined in this Code:

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes and shall adhere to the minimum lot area where specified. Except for automobile off-street parking and loading facilities, all activities relating to any such use shall be conducted wholly within an enclosed building, except (i) as specifically permitted herein; or (ii) upon City Council approval of a Special Use Exception specifying such outdoor use; or (iii) upon application approved by the City Council for a temporary unenclosed use that may be permitted from time to time after application is made to and approved by the city council and after a finding by the City Council that the general welfare is not adversely affected.
- (1) Art, book, school supply and stationery stores
 - (2) Automobile parts store (retail sales only with no on-site installation of automobile parts or accessory items)
 - (3) Banks, financial institutions, savings and loan associations
 - (4) Barbershop, beauty parlor
 - (5) Bicycle repair, sales and rental
 - (6) Blueprinting and photostating establishments
 - (7) Bus passenger terminal
 - (8) Camera and photographic supply shops for retail sales
 - (9) Catering establishments
 - (10) Churches (30,000 square feet)
 - (11) Clubs and fraternal organizations

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- (12) Custom dressmaking, millinery, or tailoring when conducted for retail sales on the premises only
- (13) Department stores
- (14) Drugstores
- (15) Dry-cleaning and pressing establishments, when employing facilities for the cleaning and pressing of dry goods received on the premises from retail trade only and not including any wholesale cleaning or pressing business, and when using solvents approved by the fire department and the National Board of Fire Underwriters
- (16) Dry goods stores, haberdashery, and wearing apparel
- (17) Electrical appliance store and repair, but not including appliance assembly and manufacturing
- (18) Florist shop and conservatory for retail trade on premises only
- (19) Food store
- (20) Frozen food lockers
- (21) Funeral homes and mortuaries
- (22) Furniture stores and upholstery shops
- (23) Furrier, when conducted for retail trade on the premises only
- (24) Garden supplies and seed stores
- (25) Gift stores
- (26) Hardware stores
- (27) Hobby stores
- (28) Hotels and motels
- (29) Household appliance stores and repair shops
- (30) Interior decorating shops, including upholstery and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations and secondary to the main use.
- (31) Jewelry stores and watch repair
- (32) Launderette, laundromat or similar self-service dry cleaning establishment which does not operate before the hour of 7:00 a.m. or after the hour of 10:00 p.m., and laundry or dry-cleaning pick-up station
- (33) Learning center
- (34) Leather goods and luggage stores
- (35) Liquor stores, package goods only
- (36) Massage Therapy
- (37) Meat markets
- (38) Medical clinics
- (39) Residential units in combination with other permitted uses in the same mixed-use development when approved subject to the development regulations set forth in Section A-42(d).
- (40) Newsstands
- (41) Nonpublic rescue service facilities and other emergency rescue services
- (42) Offices, business and professional
- (43) Office supplies and office equipment sales and service
- (44) Outpatient facilities for the treatment of alcohol and other drug abuse as certified by the Department of Mental Health of the State of Missouri.
- (45) Off-street parking facilities in an open lot or a covered building
- (46) Paint and wallpaper stores
- (47) Photography studio, art gallery or studio, including the developing of film and pictures when conducted as part of the retail business on the premises

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- (48) Physical and Rehabilitation Therapy
 - (49) Plumbing showroom, without shop or repair facilities
 - (50) Post office
 - (51) Public utility collection offices
 - (52) Shoe store or shoe repair shop
 - (53) Sporting goods store
 - (54) Tailor shops
 - (55) Telephone business office or exchange
 - (56) Theaters, indoor
 - (57) Tobacco stores
 - (58) Variety store
 - (59) Wearing apparel shops
 - (60) Antenna and antenna support structure in accordance with Article X
- (b) *Accessory Uses.* The following accessory uses and structures are permitted and shall not be constructed upon a lot until the construction of the main building has been actually commenced:
- (1) Antennas, one per lot meeting the following criteria:
 - a. Parabolic, ground mounted, not exceeding 12 feet above the adjacent ground level or 12 feet in diameter; or
 - b. Parabolic, building mounted, not exceeding 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter; or
 - c. Receive-only television antenna.
 - d. Antenna and antenna support structure, not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC.
 - (2) Off-street motor vehicle parking areas and loading and unloading areas
 - (3) Outdoor restaurant seating meeting the requirements for an accessory use
 - (4) Temporary buildings and uses for construction purposes for a period not to exceed one year
 - (5) Storage of merchandise normally carried in stock on the same lot with any retail service or business use unless such storage is excluded by the district regulations.
- (c) *Special Uses.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
- (1) Amusement or recreational establishments, including bowling alleys, billiards and pool parlors, which must be conducted wholly within an enclosed building
 - (2) Automobile Accessory Stores with retail sales and related installation services, provided that installation is limited to materials sold only site
 - (3) Commercial Schools
 - (4) Convenience store
 - (5) Dance Halls
 - (6) Domiciliary home
 - (7) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (8) Group day care homes and day care center

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- (9) Museums and historical buildings
 - (10) Outdoor use
 - (11) Private recreational development. (15,000 square feet)
 - (12) Antenna support structure in accordance with Article X
 - (13) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri.
 - (14) Restaurant
 - (15) Restaurant, drive thru/drive in (1 acre)
 - (16) Restaurant, outdoor seating not permitted as an accessory use
 - (17) Service station, public garages, major and minor automobile repair or other vehicle services and storage (20,000 square feet)
 - (18) Utility Substation
- (d) *Mixed Use Development on More than Five (5) Acres.* The following development regulations establish the procedure for the review by the Planning and Zoning Commission and City Council for Mixed Use Development Proposals in the B-2 General Business District and their accessory uses (parking lots, accessory structures, landscape areas, etc.).
- (1) The owner or owners of any tract of land shall file application with the City for a development plan. The development plan shall include the following information:
 - a. Plot plan showing the size, dimensions and location of the property.
 - b. The proposed building lines.
 - c. The proposed location and approximate size of the building or buildings.
 - d. The proposed building elevations showing the height, scale, and massing of the building or buildings proposed on site; and a massing model or a three dimensional representative of the massing of buildings and structures adjacent to the property in a one block radius in all directions (north, south, east, and west).
 - e. The tentative parking and circulation patterns.
 - f. The approximate existing and proposed contours.
 - g. A landscape plan, including a tree study, with the proposed planting and buffering areas.
 - h. A matrix which clearly indicates all uses planned as part of the development, the total square footage of each use, and the type of residential units proposed (apartments, town homes, etc.) with the quantity of each type.
 - i. A proposed project schedule, including a timeline, which clearly details the project start and completion dates. If phasing is proposed, a specific phasing plan shall be included.
 - (2) The development regulations of the B-2 General Business District shall apply to the proposed mixed-use project, in addition to the following regulations.
 - a. *Commercial Element Percentages.* For mixed-use developments consisting of a single building, the entire ground story shall be provided

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as commercial uses only and residential uses only shall be provided on the second and above stories.

For mixed-use development consisting of multiple buildings, a minimum of twenty (20) percent and maximum of forty (40) percent of the total gross floor area of all buildings shall be provided as commercial use. If a commercial use is provided in a building, the entire ground story shall be provided as commercial uses only and residential uses only shall be provided on the second and above stories.

- b. *Density.* The minimum gross lot area per dwelling unit shall be 1,200 square feet for mixed-use buildings.
- (3) A filing fee in accordance with Chapter 5, Article VI “Fee Schedule” shall accompany the application.

The Planning and Zoning Commission shall review the application and act upon the application after the proper submittal to the City with all required documentation and drawings.

Within 120 days after the application is first presented to the Planning and Zoning Commission by placement on an agenda, the Planning and Zoning Commission shall report to the City Council with its recommendations as to the application and the development plan. If the Planning and Zoning Commission fails to send a recommendation to the Council within 120 days after it is first presented to the Planning and Zoning Commission, the application shall be considered as having received an affirmative recommendation.

The Council shall conduct a public hearing concerning the application after having given notice of the time, place and purpose of such public hearing by at least one notice in a newspaper of general circulation within the City of Kirkwood at least 15 days prior to the date of the public hearing, and by sending a copy of said notice by first class mail to all property owners shown by the County tax records within 300 feet of the boundaries of the area.

The Council may then either approve, disapprove, or modify and then approve the application and the development plan by resolution, or it may return the same to the Planning and Zoning Commission for further study and report.

- (4) Within twelve (12) months from the date of the Approval Resolution by the City Council of the application and the development plan, a final site plan for the mixed use development shall be filed with the Planning and Zoning Commission and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.” The approval resolution shall be considered void if the final site plan is not filed within twelve (12) months. Such final site plan, in addition to all items as required on the development plan, shall include the following:
 - a. The existing and proposed contour intervals.

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- b. The landscape plan with the specific location of all plant materials specifying size, species and location.
- c. All proposed structures.
- d. Sidewalks.
- e. Parking spaces and traffic lanes.
- f. Loading and delivery zones.
- g. Ingress and egress facilities.
- h. Plan for the provision of water, sanitary sewage and storm drainage facilities.
- i. All easements and dedications.
- j. All other information which the City Council may designate as a condition of the development plan approval.

The Planning and Zoning Commission shall review the final site plan in accordance with the Approval Resolution passed by the City Council and in accordance with Article IV, Section A-22(g), Guidelines in Site Plan Approval. This review shall constitute a site plan review. The Planning and Zoning Commission shall report to the City Council with its recommendation whether the final site plan is substantially consistent with the Approval Resolution and satisfies all the conditions of the Approval Resolution.

The Council may then either approve, disapprove, or modify and the final site plan and the Planning and Zoning Commission by resolution.

- (5) No building permit shall be issued to construct any part or all of the development in the district until such time as the City Council has approved the final site plan. However, site grading to prepare the tract for development may be permitted by the City Council as a condition of approval of the development plan.
- (6) Within twelve (12) months of the date of approval of the final site plan by the City Council, construction shall commence, or the development approval and site plan shall be void. Upon commencement of construction, progress must be continuous to completion. If no inspection is made by the Building Commissioner's Office for a period greater than 180 days, and every 180 days thereafter, a penalty of ten percent (10%) of the Performance Guarantee balance shall be forfeited to the City of Kirkwood. Any applicant desiring to extend the period in which construction shall commence under a Mixed Use Development shall, no later than thirty (30) days prior to the date such Mixed Use Development shall terminate, submit a written request to the City Council setting forth the reasons such development should be extended and filing fee in accordance with Chapter 5 of the Kirkwood Municipal Code. The City Council may extend such application for an additional one year(s) from the anticipated date of expiration at the sole discretion of the City Council. No Mixed Use Development shall be deemed to terminate pending consideration by the City Council of a timely filed application.
- (7) Financial guarantees. In reviewing the final site plan, the City Council shall require a cash deposit, letter of credit, or other financial guarantee acceptable to the city, to be furnished by the developer to insure compliance with such requirements as completion timelines, drives, walks, utilities, sewers, parking,

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landscaping and the like. The financial guarantee shall be deposited with the City within six (6) months of Final Approval by the City Council and prior to the issuance of any permits. As work progresses, the Director of Public Works may authorize a proportional release of the financial guarantee upon completion of significant phases or improvements.

- (8) Amendments To Approved Final Site Plans. The owner or owners of any tract of land with an approved final site plan for a mixed-use development (or existing mixed use development) shall file an application for amendment to said plan, and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.”
- a. If the proposed amendment substantially modifies the approved final site plan by intensity of use, traffic impact, or construction or expansion of a structure or parking area by more than 5,000 square feet, the plan shall be reviewed in accordance with the development regulations described in this Section (d).
 - b. If the proposed amendment modifies the site plan of the approved plan, the application shall be reviewed by the Planning and Zoning Commission and City Council as a final site plan.
 - c. Minor revisions to the final site plan may be approved by the Director of Public Works if such revisions satisfy the intent of the approved site plan.
- (e) *Height of building.* No building shall exceed in height that height which for that particular building will create a maximum floor area ratio in excess of two and one-half (2 ½) or 40 feet whichever is the lesser except when the building is part of a mixed-use development, the height shall not exceed 60 feet when approved by the Planning and Zoning Commission or City Council as part of a site plan review. Architectural features may be permitted above the height limitations provided that the space above the maximum height is not occupied, not used for storage, and is approved by Planning and Zoning or the City Council as part of a site plan review.
- (f) *Yard areas.* More than one commercial or institutional building may be erected upon a single lot but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such building, nor shall there be any change in the intensity of use requirements. No building or structure shall be constructed or enlarged unless the following yards are provided and maintained in connection with such building, unless otherwise provided herein.

Exception: (i) The ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twelve (12) inches horizontally; (ii) open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five feet; and (iii) the ordinary projections of chimneys and flues.

- (1) Front yard:

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- a. On a corner lot, there shall be a front yard on each side of such corner lot.
 - b. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty square feet may project into the required front yard for a distance not to exceed four feet.
 - c. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:
 1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.
 2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.
- (2) Side yard:
- a. No side yard is required except on the side of a lot abutting on an “R” dwelling district, in which case there shall be a side yard equal to 50% of the building height and not less than ten (10) feet.
 - b. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above grade may project into a required yard, but not closer than two (2) feet to the adjacent side lot line.
- (3) Rear yard:
- a. No rear yard is required except on the rear of a lot abutting on an “R” dwelling district, in which case there shall be a rear yard equal to 50% of the building height and not less than ten (10) feet.
 - b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.
 - c. An unenclosed porch not more than one story in height or paved terrace may project into the required rear yard for a distance not exceeding ten feet.
- (4) Screening. Where the rear yard or side yard abuts an “R” dwelling district, a structurally sound wall or fence at least six foot high may be required by the

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Planning and Zoning Commission and a ten-foot wide planting screen shall be provided and maintained.

- (g) *Height, Lot, and Yard Requirements for Accessory Structures*
 - (1) Accessory structures shall be located behind the front line of the primary structure. For corner lots, accessory structures shall be located behind the front line on each frontage.
 - (2) Maintain a minimum distance of five (5) feet from any side and rear property line, unless attached to the principal building on the property;
 - (3) Maintain a maximum site coverage of seven (7) percent of the total lot area nor more than 1,500 square feet of total lot area;
 - (4) Maintain a height less than that of the primary structure established on the lot or 1-1/2 stories, whichever is less; and
 - (5) Maintain a minimum distance of 5 feet between any other buildings on the property, unless attached to the principal building on the property.
- (h) *Off-street parking and loading facilities.* Shall be provided as required in Article XI of this Ordinance except for mixed-use developments of over five (5) acres when approved by the Planning and Zoning Commission or City Council as part of a site plan review.
- (i) *Sidewalks.* Sidewalks shall be required along streets on public rights-of-way as a condition of the issuance of any building permit for structures within this district. The planning and zoning commission may waive such requirement upon application by the affected party, subject to final review by the city council if requested by the building commissioner or party in interest.
- (j) *Construction* is subject to site plan review as outlined in Article IV.

(Ord. No. 8987, §1, 1-4-01; Ord. No. 9124, §§1-3, 1-17-02; Ord. No. 9160, §§1, 6, 4-18-02; Ord. No. 9165, §§1-3, 5-16-02; Ord. No. 9542, §1, 10-06-05; Ord. No. 9611, §1-2, 8-3-06; Ord. No. 9720, §7, 11-15-07; Ord. No. 9921, §3, 5-20-10; Ord. No. 9941, §§1-10, 8-5-10)

Sec. A-43. B-3 Highway Business District.

Within B-3 Highway Business District, the following regulations shall apply;

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes and except for automobile off-street parking and loading facilities, all activities relating to any such use shall be conducted wholly within an enclosed building, except (i) as specifically permitted herein or (ii) upon City Council approval of a Special Use Exception specifying such outdoor use; or (iii) upon application approved by the City Council for a temporary unenclosed use that may be permitted from time to time after application is made to and approved by the city council and after a finding by the City Council that the general welfare is not adversely affected.
 - (1) Air conditioning and heating sales and service
 - (2) Art, book, school supply and stationery stores

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- (3) Automobile parts store (retail sales only with no on-site installation of automobile parts or accessory items)
- (4) Automobile washing, including the use of mechanical conveyors, blowers, and steam cleaning
- (5) Banks, financial institutions, savings and loan associations
- (6) Barbershop, beauty parlor
- (7) Bicycle repair, sales and rental
- (8) Blueprinting and photostating establishments
- (9) Boat showroom
- (10) Bus passenger terminal
- (11) Camera and photographic supply shops for retail sales
- (12) Catering establishments
- (13) Clubs and fraternal organizations
- (14) Custom dressmaking, millinery, or tailoring when conducted for retail sales on the premises only
- (15) Department stores
- (16) Drugstores
- (17) Dry-cleaning and pressing establishments, when employing facilities for the cleaning and pressing of dry goods received on the premises from retail trade only and not including any wholesale cleaning or pressing business, and when using carbon tetrachloride, perchloroethylene, or other similar nonflammable solvents approved by the fire department and the National Board of Fire Underwriters
- (18) Dry goods stores, haberdashery, and wearing apparel
- (19) Dyeing, dry cleaning and laundry works having a boiler with a steam generating capacity no greater than 2,500 pounds of steam per hour and which utilizes in its operations only nonflammable solutions and materials approved by the fire department and the National Board of Fire Underwriters
- (20) Electrical appliance store and repair, but not including appliance assembly and manufacturing
- (21) Feed and seed store
- (22) Florist shop and conservatory for retail trade on premises only
- (23) Food store
- (24) Frozen food lockers
- (25) Funeral homes and mortuaries
- (26) Furniture stores and upholstery shops
- (27) Furrier, when conducted for retail trade on the premises only
- (28) Garden supplies and seed stores
- (29) Gift stores
- (30) Hardware stores
- (31) Hobby stores
- (32) Hotels and motels
- (33) Household appliance stores and repair shops
- (34) Interior decorating shops, including upholstery and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations and secondary to the main use
- (35) Jewelry stores and watch repair
- (36) Launderette, laundromat or similar self-service dry cleaning establishment which does not operate before the hour of 7:00 a.m. or after the hour of 10:00 p.m., and laundry or dry-cleaning pick-up station

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- (37) Learning center
 - (38) Leather goods and luggage stores
 - (39) Liquor stores, package goods only
 - (40) Machinery, farm-sales and service
 - (41) Massage Therapy
 - (42) Meat markets
 - (43) Medical clinics
 - (44) Messenger or telegraph service station
 - (45) Motorcycle sales, repair and rental
 - (46) Newsstands
 - (47) Nonpublic rescue service facilities and other emergency rescue services
 - (48) Offices, business and professional
 - (49) Outpatient facilities for the treatment of alcohol and other drug abuse as certified by the Department of Mental Health of the State of Missouri
 - (50) Off-street parking facilities in an open lot or a covered building
 - (51) Paint and wallpaper stores
 - (52) Pet shop or animal hospital when conducted wholly within an enclosed building
 - (53) Photography studio, art gallery or studio, including the developing of film and pictures when conducted as part of the retail business on the premises
 - (54) Plumbing, heating and roofing supply shops when conducted wholly within a building
 - (55) Post office
 - (56) Public utility collection offices
 - (57) Shoe store or shoe repair shop
 - (58) Sporting goods store
 - (59) Tailor shops
 - (60) Telephone business office or exchange
 - (61) Theaters, indoor
 - (62) Tobacco stores
 - (63) Trailer sales or rental (house trailers) on an open lot or within a building. All lights used in connection with such business shall be directed away from adjacent residences.
 - (64) Typewriter and office equipment sales and service
 - (65) Variety store
 - (66) Wearing apparel shops
 - (67) Antenna and antenna support structure in accordance with Article X
- (b) *Accessory Uses.* The following accessory uses and structures are permitted and shall not be constructed upon a lot until the construction of the main building has been actually commenced:
- (1) Antennas, one per lot meeting the following criteria:
 - a. Parabolic, ground mounted, not exceeding 12 feet above the adjacent ground level or 12 feet in diameter; or
 - b. Parabolic, building mounted, not exceeding 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter; or
 - c. Receive-only television antenna.

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- d. Antenna and antenna support structure, not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC.
 - (2) Off-street motor vehicle parking areas and loading and unloading areas
 - (3) Outdoor restaurant seating meeting the requirements of an accessory use
 - (4) Temporary buildings and uses for construction purposes for a period not to exceed one year
 - (5) Storage of merchandise normally carried in stock on the same lot with any retail service or business use unless such storage is excluded by the district regulations.
- (c) *Special Uses.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
- (1) Amusement or recreational establishments, including bowling alleys, billiards and pool parlors, which must be conducted wholly within an enclosed building
 - (2) Automobile Accessory Stores with retail sales and related installation services, provided that installation is limited to materials sold only on site
 - (3) Automobile and other vehicle sales and service shops, provided that sales of new vehicles shall exceed the sale of used vehicles each year and no streamer lights are used
 - (4) Artificial lake
 - (5) Commercial Schools
 - (6) Convenience store
 - (7) Convenience/Gas Store (20,000 square feet)
 - (8) Dance Halls
 - (9) Domiciliary home
 - (10) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (11) Food/Gas Store (20,000 square feet)
 - (12) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (13) Greenhouse, commercial (25,000 square feet)
 - (14) Group day care homes and day care center
 - (15) Heliport (1 acre)
 - (16) Hospital (5 acres)
 - (17) Museums and historical buildings
 - (18) Nursing home (3 acres)
 - (19) Outdoor commercial recreational enterprise (10,000 square feet)
 - (20) Outdoor use
 - (21) Practice golf driving range, miniature golf course, pitch and putt golf course (10 acres)
 - (22) Private recreational development (15,000 square feet)
 - (23) Private or commercial sewage facility
 - (24) Produce terminal, wholesale (20 acres)
 - (25) Antenna support structure in accordance with Article X
 - (26) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri
 - (27) Residential uses in the second story of commercial buildings
 - (28) Restaurant (20,000 square feet)
 - (29) Restaurant, drive thru/drive in (1 acre)

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- (30) Restaurant, outdoor seating not permitted as an accessory use
 - (31) Sale and display of antique and classic automobiles
 - (32) Service station, public garages, major and minor automobile repair or other vehicle services and storage (20,000 square feet)
 - (33) Shopping Center (5 acres)
 - (34) Standard outdoor advertising structures
 - (35) Utility substation
- (d) *Height.* No building shall exceed in height that height which for that particular building will create a maximum floor area ratio in excess of 2.
- (e) *Lot size.* Every building hereafter erected shall be on a lot having an area of not less than 10,000 square feet and a width at the established front building line of not less than eighty (80) feet, except as required otherwise herein.
- (f) *Yard areas.* More than one commercial or institutional building may be erected upon a single lot but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such building, nor shall there be any change in the intensity of use requirements. No building or structure shall be constructed or enlarged unless the following yards are provided and maintained in connection with such building, unless otherwise provided herein.

Exception: (i) The ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twelve (12) inches; (ii) open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five feet; and (iii) the ordinary projections of chimneys and flues.

- (1) Front yard:
- a. Each lot upon which a building is constructed shall have a front yard of not less than fifty (50) feet.
 - b. On a corner lot there shall be provided the required front yard of fifty (50) feet on each street side of such corner lot if both are "Major" Streets. If the side street is a secondary street, a front yard of thirty-five (35) feet shall be provided on said secondary street.
 - c. On through lots the required front yard of fifty (50) feet shall be provided on both streets.
 - d. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard for a distance not to exceed four feet.
 - e. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:

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1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.

2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.

(2) Side yard.

a. No side yard is required, except on the side of the lot that abuts on a "R" dwelling district, in which case there shall be provided a side yard equal to one-half ($\frac{1}{2}$) the front yard required in the abutting "R" district; provided, however, the side yard need not exceed twenty (20) feet.

b. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet above grade may project into a required yard, but not closer than two (2) feet to the adjacent side lot line.

(3) Rear yard:

a. There shall be a rear yard of not less than twenty (20) feet, provided, however, that a one story accessory building may be located thereon, except for the five feet adjacent and parallel to the rear lot line or alley line, for the storage of motor vehicles and the unloading and loading of vehicles under roof, as provided in Article XI of this Ordinance. In computing the depth of a rear yard, where outside storage is utilized such yard opens onto an alley, one-half ($\frac{1}{2}$) of the alley width may be included as a portion of the rear yard.

b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.

c. An unenclosed porch not more than one story in height or paved terrace may project into the required front or rear yard for a distance not exceeding ten feet.

(g) *Buffer area.* On lots abutting an "R" dwelling district there shall be provided a twenty (20) foot wide planting strip extending the length of the lot adjoining the "R" dwelling district and planted with trees and shrubs to provide a dense screen to within ten (10) feet of the street right-of-way.

(h) *Height, Lot, and Yard Requirements for Accessory Structures*

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- (1) Accessory structures shall be located behind the front line of the primary structure. For corner lots, accessory structures shall be located behind the front line on each frontage.
 - (2) Maintain a minimum distance of five (5) feet from any side and rear property line, unless attached to the principal building on the property;
 - (3) Maintain a maximum site coverage of seven (7) percent of the total lot area nor more than 1,500 square feet of total lot area;
 - (4) Maintain a height less than that of the primary structure established on the lot or 1-1/2 stories, whichever is less; and
 - (5) Maintain a minimum distance of five (5) feet between any other building on the property, unless attached to the principal building on the property.
- (i) *Off-street parking and loading facilities.* Shall be provided as required in Article XI of this Ordinance.
- (j) *Sidewalks.* Sidewalks shall be required along streets on public rights of way as a condition of the issuance of any building permit for structures within this district. The planning and zoning commission may waive such requirement upon application by the affected party, subject to final review by the city council if requested by the building commissioner or party in interest.
- (k) *Construction* is subject to site plan review as outlined in Article IV.

(Ord. No. 9160; §§2, 7, 4-18-02; Ord. No. 9720, §8, 11-15-07; Ord. No. 9921, §4, 5-20-10)

Sec. A-44. B-4 Planned Commercial District.

Within B-4 Planned Commercial District, the following regulations shall apply:

- (a) *Permitted uses:* A building or premises shall be used only for the following purposes:
- (1) Art, book, school supply and stationery stores.
 - (2) Automobile parts store (retail sales only with no on-site installation of automobile parts or accessory items)
 - (3) Banks, financial institutions, savings and loan associations
 - (4) Barbershop, beauty parlor
 - (5) Bicycle repair, sales and rental
 - (6) Blueprinting and photostating establishments
 - (7) Bus passenger terminal
 - (8) Camera and photographic supply shops for retail sales
 - (9) Catering establishments
 - (10) Clubs and fraternal organizations
 - (11) Custom dressmaking, millinery, or tailoring when conducted for retail sales on the premises only
 - (12) Department stores
 - (13) Drugstores

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- (14) Dry-cleaning and pressing establishments, when employing facilities for the cleaning and pressing of dry goods received on the premises from retail trade only and not including any wholesale cleaning or pressing business, and when using carbon tetrachloride, perchloroethylene, or other similar nonflammable solvents approved by the fire department and the National Board of Fire Underwriters
- (15) Dry goods stores, haberdashery, and wearing apparel
- (16) Dyeing, dry cleaning and laundry works having a boiler with a steam generating capacity no greater than 2,500 pounds of steam per hour and which utilizes in its operations only nonflammable solutions and materials approved by the fire department and the National Board of Fire Underwriters
- (17) Electrical appliance store and repair, but not including appliance assembly and manufacturing
- (18) Florist shop and conservatory for retail trade on premises only
- (19) Food store
- (20) Frozen food lockers
- (21) Funeral homes and mortuaries
- (22) Furniture stores and upholstery shops
- (23) Furrier, when conducted for retail trade on the premises only
- (24) Garden supplies and seed stores
- (25) Gift stores
- (26) Hardware stores
- (27) Hobby stores
- (28) Hotels and motels
- (29) Household appliance stores and repair shops
- (30) Interior decorating shops, including upholstery and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations and secondary to the main use
- (31) Jewelry stores and watch repair
- (32) Launderette, laundromat or similar self-service dry cleaning establishment which does not operate before the hour of 7:00 a.m. or after the hour of 10:00 p.m., and laundry or dry-cleaning pick-up station
- (33) Learning center
- (34) Leather goods and luggage stores
- (35) Liquor stores, package goods only
- (36) Massage Therapy
- (37) Meat markets
- (38) Medical clinics
- (39) Messenger or telegraph service station
- (40) Newsstands
- (41) Nonpublic rescue service facilities and other emergency rescue services
- (42) Offices, business and professional
- (43) Outpatient facilities for the treatment of alcohol and other drug abuse as certified by the Department of Mental Health of the State of Missouri
- (44) Off-street parking facilities in an open lot or a covered building
- (45) Paint and wallpaper stores
- (46) Photography studio, art gallery or studio, including the developing of film and pictures when conducted as part of the retail business on the premises
- (47) Plumbing showroom, without shop or repair facilities
- (48) Post office

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- (49) Public utility collection offices
 - (50) Shoe store or shoe repair shop
 - (51) Sporting goods store
 - (52) Tailor shops
 - (53) Telephone business office or exchange
 - (54) Theaters, indoor
 - (55) Tobacco stores
 - (56) Typewriter and office equipment sales and service
 - (57) Variety store
 - (58) Wearing apparel shops
 - (59) Multiple dwelling units in combination with other permitted uses within the same building, provided that all of the dwelling units within a single building shall have an average floor area of at least four hundred (400) square feet, excluding all areas not used for living purposes and provided that dwelling units shall be located only at the second story above grade and above, and in buildings not less than three (3) stories in height.
 - (60) Antenna and antenna support structure in accordance with Article X
- (b) *Accessory Uses.* The following accessory uses and structures are permitted and shall not be constructed upon a lot until the construction of the main building has been actually commenced:
- (1) Antennas, one per lot meeting the following criteria:
 - a. Parabolic, ground mounted, not exceeding 12 feet above the adjacent ground level or 12 feet in diameter; or
 - b. Parabolic, building mounted, not exceeding 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter; or
 - c. Receive-only television antenna.
 - d. Antenna and antenna support structure, not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC.
 - (2) Off-street motor vehicle parking areas and loading and unloading areas
 - (3) Outdoor restaurant seating meeting the requirements of an accessory use
 - (4) Temporary buildings and uses for construction purposes for a period not to exceed one year
 - (5) Storage of merchandise normally carried in stock on the same lot with any retail service or business use unless such storage is excluded by the district regulations.
- (c) *Special Uses.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
- (1) Amusement or recreational establishments, including bowling alleys, billiards and pool parlors, which must be conducted wholly within an enclosed building
 - (2) Automobile Accessory Stores with retail sales and related installation services, provided that installation is limited to materials sold only on site
 - (3) Automobile and other vehicle sales and service shops, provided that sales of new vehicles shall exceed the sale of used vehicles each year and no streamer lights are used
 - (4) Artificial lake
 - (5) Convenience store

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- (6) Convenience/Gas Store (20,000 square feet)
 - (7) Dance Halls
 - (8) Domiciliary home
 - (9) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (10) Food/Gas Store (20,000 square feet)
 - (11) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (12) Group day care homes and day care center
 - (13) Hospital (5 acres)
 - (14) Museums and historical buildings
 - (15) Nursing home (3 acres)
 - (16) Outdoor use
 - (17) Private recreational development (15,000 square feet)
 - (18) Private or commercial sewage facility
 - (19) Antenna support structure in accordance with Article X
 - (20) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri
 - (21) Restaurant (20,000 square feet)
 - (22) Restaurant, outdoor seating not permitted as an accessory use
 - (23) Utility substation
- (d) *Condition of use:* All activities as permitted or required shall be conducted wholly within an enclosed building.
- (e) *Height of building:* No building shall exceed in height that height which for that particular building will create a maximum floor area ratio in excess of two and one-half (2½).
- (f) *Lot requirements:* There may be more than one main building upon a tract of land, and the yard requirements set forth in subparagraph (e) hereof shall apply to the tract of land as a whole and not to any particular building thereon, the only requirement being that no building shall encroach upon the required front, side or rear yard of the tract as a whole. For the purposes of this section only, the front shall be the side having the greatest frontage upon a street or upon an officially approved place.
- (g) *Yard areas:*
- (1) On sites greater than 65,340 square feet (one and one-half (1½) acres), no building or structure except for that portion built entirely below grade with no exposed wall shall be closer than fifty (50) feet to the front, side or rear property line, except that a building 4 stories or less in height may be built to within 40 feet of the front property line and within 25 feet of the side and rear property lines if the development plan for such building is approved by the City Council. On a through lot, the required front yard shall be provided on both streets. On a corner lot, the required front yard shall be provided on both streets.
 - (2) On sites of 65,340 square feet (one and one-half (1½) acres) or less, the building lines specified in subparagraph (1) above may be modified subject to approval by

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the Planning Commission and the City Council as part of a specified total development plan.

(h) *Off-street parking:*

- (1) Off-street parking shall be as required by Article XI of this Ordinance or as approved by the planning and zoning commission and the city council. No surface parking areas shall be closer than 15 feet to the front property lines nor closer than 6 feet to the side and rear property lines.
- (2) On sites of 65,340 square feet (one and one-half (1½) acres) or less, the loading space requirements specified in subparagraphs (1) above may be modified subject to approval by the Planning Commission and the City Council as part of a specified total development plan.

(i) *Loading spaces:*

- (1) There shall be one loading space for the first 25,000 square feet of gross building area and there shall be one additional loading space for each additional 50,000 square feet of gross building area, provided however that there shall not be more than 4 loading spaces required for buildings designated and occupied exclusively as offices. The design of the off-street loading and unloading spaces shall be as provided in Section 3 of Article XI of this Ordinance.
- (2) On sites of 65,340 square feet (one and one-half (1½) acres) or less, the off-street parking requirements and parking set backs specified in subparagraph (1) above may be modified subject to approval by the Planning Commission and the City Council as part of a specified total development plan.

(j) *Screening:*

- (1) There shall be planting screens not less than 6 feet in width and not less than 6 feet in height or a structurally sound wall or fence, or a combination thereof, between surface parking areas and side and rear property lines.

There shall be planting areas not less than 15 feet in width and not less than 3 feet in height between surface parking areas and front property lines. All of said planting screens and planting areas are to serve as a screen for the parking area.

- (2) On sites of 65,340 square feet (one and one-half (1½) acres) or less, the screening specified in subparagraph (1) above may be modified subject to approval by the Planning Commission and the City Council as part of a specified total development plan.

(k) *Development Regulations:*

- (1) The owner or owners of any tract of land shall file application with the City for a development plan. The development plan shall include the following information-

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- a. Plot plan showing the size, dimensions and location of the property.
 - b. The proposed building lines.
 - c. The proposed location and approximate size of the building or buildings.
 - d. The tentative parking and circulation patterns.
 - e. The approximate existing and proposed contours.
 - f. The proposed planting and buffering areas.
- (2) A filing fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule” accompany the application.

The Planning and Zoning Commission shall review the application and shall conduct a public hearing concerning the same after having given notice of the time, place and purpose of such public hearing by at least one notice in a newspaper of general circulation within the City of Kirkwood at least 15 days prior to the date of the public hearing, and by sending a copy of said notice by first class mail to all property owners shown by the City tax records within 300 feet of the boundaries of the area.

Within 60 days after the public hearing, the Planning and Zoning Commission shall report to the City Council with its recommendations as to the application and the development plan. If the Planning and Zoning Commission fails to send a recommendation to the Council within 60 days after the public hearing, the application shall be considered as having received an affirmative recommendation. The Council may then either approve, disapprove, or modify and then approve the application and the development plan by resolution, or it may return the same to the Planning and Zoning Commission for further study and report.

- (3) Within twelve (12) months from the date of the approval Resolution by the City Council of the application and the development plan, a final site plan shall be filed with the Planning and Zoning Commission and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.” The approval resolution shall be considered void if the final site plan is not filed within twelve (12) months. Such final site plan, in addition to matters shown on the development plan, shall include the following:
- a. The existing and proposed contour intervals.
 - b. The landscape plan with the specific location of all plant materials specifying size, species and location.
 - c. All proposed structures.
 - d. Sidewalks.
 - e. Parking spaces and traffic lanes.
 - f. Loading and delivery zones.
 - g. Ingress and egress facilities.
 - h. Plan for the provision of water, sanitary sewage and storm drainage facilities.
 - i. All easements and dedications.
 - j. All other information which the City Council may designate as a condition of the development plan approval.

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The Planning and Zoning Commission shall review the final site plan in accordance with the approval resolution passed by the City Council. The Planning and Zoning Commission shall review the final site plan in accordance with Article IV, Section A-22(g), Guidelines in Site Plan Approval, and make a recommendation to the City Council that the final site plan is substantially consistent with the approval resolution and satisfies all the conditions of the approval resolution.

The City Council may approve the final site plan or overturn or modify the findings of the Planning and Zoning Commission by resolution.

- (4) No building permit shall be issued to construct any part or all of the development in the district until such time as the Planning and Zoning Commission has approved the final site plan. However, site grading to prepare the tract for development shall be permitted upon approval of the development plan.
 - (5) Within twenty-four (24) months of the date of approval of the final site plan by the Planning and Zoning Commission, construction shall commence, or the development approval and site plan shall be void.
- (l) *Financial guarantees.* In reviewing the final site plan, the Planning and Zoning Commission may, for good cause, require that a cash deposit, escrow arrangement, certified check, bond, letter of credit or other financial guarantee acceptable to the city, be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking landscaping and the like. The financial guarantee shall be deposited with the City at the time of issuance of the permit authorizing the project or activity. As work progresses, the Director of Public Works may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
 - (m) *Amendments To Approved Development Plans.* The owner or owners of any tract of land with an approved development plan (or existing use and development) shall file an application for amendment to said plan and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.”
 - (1) If the proposed amendment substantially modifies the approved development plan by intensity of use, traffic impact, or construction or expansion of a structure or parking area by more than 5,000 square feet, the plan shall be reviewed in accordance with (i) Development Regulations.
 - (2) If the proposed amendment modifies the site plan of the approved plan, the application shall be reviewed by the Planning and Zoning Commission and City Council as a final site plan.
 - (3) Minor revisions to the final site plan may be approved by the Director of Public Works if such revisions satisfy the intent of the approved site plan.

(Ord. No. 9160, §§3, 8, 4-18-02; Ord. No. 9611, §1-2, 8-3-06; Ord. No. 9921, §5, 5-20-10)

Sec. A-45. B-5 Planned Commercial Development District.

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Intent and Purpose: The purpose of the B-5 Development District is to provide a means of achieving greater flexibility in development of land for intensive single and mixed uses in a single or multiple structures at suitable nodal locations within the city in a manner not possible in conventional zones; to encourage a more imaginative and innovative design of projects; to promote a more desirable community environment; and to retain maximum control over both the structure and future operation of the development.

It should be noted that these regulations are not intended to allow excessive densities, or the development of incompatible land uses, either within the development, or as the development relates to the general neighborhood. Adequate services must support such intensive development or will be provided prior to occupancy. A B-5 development will be approved only if the project is of exceptional design quality; if desirable amenities are an integral part of the development and if the project can provide for adequate transition to adjacent neighborhood areas.

The standards contained in the following provisions must be strictly adhered to by the applicant. The City may, upon proper application, approve a B-5 development for a site of at least two and one-half (2.5) contiguous acres to facilitate the use of flexible techniques of land development and site design, by providing relief from zone requirements designed for conventional developments.

Any use which in the judgment of the Planning and Zoning Commission is identical or very similar to one or more of the listed uses and which conform with the intent and purpose of this section may be added to the Permitted Uses.

Within the B-5 Planned Commercial Development District the following regulations shall apply:

- (a) *Permitted Uses:* A building or premise shall only be used for the following purpose:
- (1) Amusement or recreational facility
 - (2) Art, book, periodicals, school supply, and stationery stores
 - (3) Artificial lake
 - (4) Automobile accessory store (with retail sales and installation of automobile parts and accessories, provided that installation is limited to materials sold only on site)
 - (5) Banks, financial institutions, savings and loan associations
 - (6) Barber shop, beauty parlor
 - (7) Bicycle repair, sales, and rental
 - (8) Copy center
 - (9) Custom dressmaking, millinery, or tailoring when conducted for retail sales on the premises only
 - (10) Day care centers
 - (11) Department stores
 - (12) Drug stores
 - (13) Dry cleaning establishments
 - (14) Florist shop
 - (15) Food store
 - (16) Furniture stores
 - (17) Garden supplies

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- (18) Gift stores
 - (19) Hardware stores
 - (20) Health and physical fitness centers
 - (21) Hobby stores
 - (22) Hotels and motels
 - (23) Household appliance stores
 - (24) Interior decorating shops
 - (25) Jewelry stores
 - (26) Learning center
 - (27) Leather goods and luggage stores
 - (28) Liquor stores, package goods only
 - (29) Massage Therapy, subject to additional provisions in Chapter 13, Article III, Division 1.
 - (30) Medical and dental clinics and veterinary clinics
 - (31) Office support service centers
 - (32) Offices, business and professional
 - (33) Parabolic antennae
 - (34) Parking garages serving tenants and visitors
 - (35) Pet shops
 - (36) Photography studio, art gallery or studio, camera and photographic supply shops for retail sales
 - (37) Residential facilities for the treatment of alcohol or other drug abuse
 - (38) Restaurant, including drive-thru restaurants and outdoor seating
 - (39) Service stations, major and minor automobile repair
 - (40) Shoe store or shoe repair shop
 - (41) Sporting goods store
 - (42) Theaters, indoor
 - (43) Typewriter and office equipment sales and service
 - (44) Wearing apparel shops
 - (45) Antenna and antenna support structure in accordance with Article X
- (b) *Accessory Uses.* The following accessory uses and structures are permitted and shall not be constructed upon a lot until the construction of the main building has been actually commenced:
- (1) Antennas, one per lot meeting the following criteria:
 - a. Parabolic, ground mounted, not exceeding 12 feet above the adjacent ground level or 12 feet in diameter; or
 - b. Parabolic, building mounted, not exceeding 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter; or
 - c. Receive-only television antenna.
 - d. Antenna and antenna support structure, not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC.
 - (2) Off-street motor vehicle parking areas and loading and unloading areas
 - (3) Outdoor restaurant seating meeting the requirements of an accessory use
 - (4) Temporary buildings and uses for construction purposes for a period not to exceed one year

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- (5) Storage of merchandise normally carried in stock on the same lot with any retail service or business use unless such storage is excluded by the district regulations.
- (c) *Conditional Use:* Any change in use of the building or premise that has not received approval of a B-5 Development Plan, as provided herein, shall require a conditional use exception, pursuant to the procedures set forth in Article IX, provided that only the permitted uses enumerated herein shall be considered for such conditional use exception.
- (d) *Lot Requirements:* There may be more than one main building upon a tract of land, and the yard requirements set forth below shall apply to the tract of land as a whole and not to any particular building thereon, the only requirement being that no building shall encroach upon the required front, side, or rear yard of the approved B-5 development plan parcel as a whole. For the purposes of this section only, the front shall be the side having the greatest frontage upon a street or upon an officially approved place. Such requirements shall apply to the entire B-5 parcel as a whole and shall not apply to subdivided parcels or smaller parcels comprising of less than the entire approved B-5 development plan parcel.
- (e) *Yard Areas:* No building or structure, except for that portion built entirely below grade with no exposed wall shall be closer than 50 feet to the front, side or rear property line, except that a building four (4) stories or less in height may be built to within 40 feet of the front property line and within 25 feet of the side and rear property lines if the development plan of such building is approved by the Planning and Zoning Commission and City Council. On through and corner lots, the required front yard shall be provided on both streets. Modifications to the building line requirements may be reviewed by the Planning and Zoning Commission and approved by the City Council as part of a specified B-5 development plan. Such requirements shall apply to the entire B-5 parcel as a whole and shall not apply to subdivided parcels or smaller parcels comprising of less than the entire approved B-5 development plan parcel.
- (f) *Minimum Site Area:* Two and one half (2 ½) acres. This minimum site area may be waived by the City Council upon recommendation by the Planning and Zoning Commission if the parcel in question has certain unique physical characteristics; or if it is determined that the use proposed is desirable or necessary in relationship to the surrounding neighborhood; or if the Commission should determine that such waiver to be in general public interest. This provision shall apply to the entire B-5 parcel as a whole and shall not apply to subdivided parcels or smaller parcels comprising less than the entire approved B-5 development plan parcel.
- (g) *Off-Street Parking:* Four and one-half parking spaces shall be provided for each one thousand gross leasable square feet. No surface parking areas shall be closer than 15 feet to the property lines. These off-street parking and parking setback requirements may be modified subject to review by the Planning and Zoning Commission and approval by the City Council as part of a specified B-5 development plan. Such requirements shall apply to the entire B-5 parcel as a whole and shall not apply to subdivided parcels or smaller parcels comprising of less than the entire approved B-5 development plan parcel.
- (h) *Loading Spaces:* There shall be one loading space for the first 25,000 square feet of gross building area and there shall be one additional loading space for each additional

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50,000 square feet of gross building area, provided that there shall not be more than 4 loading spaces required for buildings designated and occupied exclusively as offices. These loading space requirements may be modified subject to the review of the Planning and Zoning Commission and approval by the City Council as part of a specific B-5 development plan. Such requirements shall apply to the entire B-5 parcel as a whole and shall not apply to subdivided parcels or smaller parcels comprising of less than the entire approved B-5 development plan parcel.

- (i) *Open Space:* Sites that are ten acres or more shall have 20% of the site proposed for development set aside for open space to be used for landscaping, buffering, parking lot landscaping areas, and pedestrian circulation. Sites less than ten acres shall set aside 30%. The Planning and Zoning Commission may reduce the required open space coverage to 15% in consideration of special or outstanding landscape and site planning features as demonstrated in the B-5 development plan. The features to be considered in the granting of a reduction in open space coverage would include the provision of:
- (1) a high quality landscape plan with proper irrigation, larger than normal plant material, intense planting, and retention of existing mature plant materials;
 - (2) use of low walls, terraces, beams and earth sculpting; and
 - (3) special pedestrian facilities and features such as plazas, covered walkways, fountains, and seating areas and outdoor recreation facilities.

Such requirements shall apply to the entire B-5 parcel as a whole and shall not apply to subdivided parcels or smaller parcels comprising of less than the entire approved B-5 development plan parcel.

- (j) *Buffer Area:* A buffer area must be provided at the rear and side of the lot adjacent to a residentially zoned district. The buffer shall provide for an effective softening transition to adjacent residential areas, which may be accomplished through the use of plantings, topography, fencing, structures, or a combination of methods. The buffer areas shall be reviewed by the Planning and Zoning Commission and approved by the City Council as part of a specific B-5 development plan. Buffer areas shall comply with the provisions of a redevelopment agreement, if applicable. Such requirements shall apply to the entire B-5 parcel as a whole and shall not apply to subdivided parcels or smaller parcels comprising of less than the entire approved B-5 development plan parcel.
- (k) *Landscaping:* Landscaping shall be provided between the B-5 and any adjoining use. Landscaping shall be reviewed by the Planning and Zoning Commission and approved by the City Council as part of a specific B-5 development plan. Formal street tree planting shall be provided. All other open space areas within a site shall be provided with ornamental or flowering trees and low shrubs, suitable ground cover, such as grass, ivy, etc. and an appropriate mulch or appropriate paved surface for pedestrian circulation. Landscaping shall comply with the provisions of a redevelopment agreement, if applicable.
- (l) *Plan Approval Required:* No development or redevelopment of the property encompassed by the Planned Commercial Development (B-5) designation shall take

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- place until the development plan has been reviewed by the Planning and Zoning Commission and approved by the City Council.
- (m) *Architectural and Sign Review:* The project shall be submitted to and reviewed by the Architectural Review Board in accordance with the rules and procedures of that board prior to consideration of the final plan by the Commission. Signage shall comply with the provisions of a redevelopment agreement, if applicable.
 - (n) *Traffic Impact:* An analysis of the proposed development's impact on current and future traffic flows shall be prepared by a qualified traffic engineer. This analysis shall be submitted with the Preliminary Plan to the Planning and Zoning Commission.
 - (o) *Underground Wiring:* All electrical, cable television, and telephone distribution lines primarily intended for the use of buildings and structures located in the B-5 development shall be installed underground for new construction and major rehabilitation. Cable switching enclosures, pad mounted transformers and service pedestals may be installed above ground where recommended by the Planning and Zoning Commission and approved by the City Council.
 - (p) *Consistency with Redevelopment Agreement, if applicable:* The City Council may authorize changes to and/or deviations from any of these regulations which are consistent with the intent and nature of the B-5 development set forth in a redevelopment agreement, if applicable.
 - (q) *Development regulations:*
 - (1) The owner or owners of any tract of land shall file application with the City for a development plan. The development plan shall include the following information:
 - a. Plot plan showing the size, dimensions and location of the property.
 - b. The proposed building lines.
 - c. The proposed location and approximate size of the building or buildings.
 - d. The tentative parking and circulation patterns.
 - e. The approximate existing and proposed contours.
 - f. The proposed planting and buffering areas.
 - (2) A filing fee shall be paid in accordance with Chapter 5, Article VI "Fee Schedule" accompany the application.

The Planning and Zoning Commission shall review the application and shall conduct a public hearing concerning the same after having given notice of the time, place and purpose of such public hearing by at least one notice in a newspaper of general circulation within the City of Kirkwood at least 15 days prior to the date of the public hearing, and by sending a copy of said notice by first class mail to all property owners shown by the City tax records within 300 feet of the boundaries of the area.

Within 60 days after the public hearing, the Planning and Zoning Commission shall report to the City Council with its recommendations as to the application and the

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development plan. If the Planning and Zoning Commission fails to send a recommendation to the Council within 60 days after the public hearing, the application shall be considered as having received an affirmative recommendation. The Council may then either approve, disapprove, or modify and then approve the application and the development plan by resolution, or it may return the same to the Planning and Zoning Commission for further study and report.

(3) Within twelve (12) months from the date of the approval resolution by the City Council of the application and the development plan, a final site plan shall be filed with the Planning and Zoning Commission and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.” The approval resolution shall be considered void if the final site plan is not filed within twelve (12) months. Such final site plan, in addition to matters shown on the development plan, shall include the following:

- a. The existing and proposed contour intervals.
- b. The landscape plan with the specific location of all plant materials specifying size, species and location.
- c. All proposed structures.
- d. Sidewalks.
- e. Parking spaces and traffic lanes.
- f. Loading and delivery zones.
- g. Ingress and egress facilities.
- h. Plan for the provision of water, sanitary sewage and storm drainage facilities.
- i. All easements and dedications.
- j. All other information which the City Council may designate as a condition of the development plan approval.

The Planning and Zoning Commission shall review the final site plan in accordance with the approval resolution passed by the City Council. The Planning and Zoning Commission shall review the final site plan in accordance with Article IV, Section A-22(g), Guidelines in Site Plan Approval, and make a recommendation to the City Council that the final site plan is substantially consistent with the approval resolution and satisfies all the conditions of the approval resolution.

The City Council may approve the final site plan or overturn or modify the findings of the Planning and Zoning Commission by resolution.

(4) No building permit shall be issued to construct any part or all of the development in the district until such time as the Planning and Zoning Commission has approved the final site plan. However, site grading to prepare the tract for development shall be permitted upon approval of the development plan.

(5) Within twenty-four (24) months of the date of approval of the final site plan by the Planning and Zoning Commission, construction shall commence, or the development approval and site plan shall be void.

(r) *Financial guarantees:* In reviewing the final site plan, the Planning and Zoning Commission may, for good cause, require that a cash deposit, escrow arrangement,

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certified check, bond, letter of credit or other financial guarantee acceptable to the city, be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the City at the time of issuance of the permit authorizing the project or activity. As work progresses, the Director **of Public Works** may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

- (s) *Amendments to Approved Development Plans.* The owner or owners of any tract of land with an approved development plan (or existing use and development) shall file an application for amendment to said plan and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.”
- (1) If the proposed amendment substantially modifies the approved development plan by intensity of use, traffic impact, or construction or expansion of a structure or parking area by more than 5,000 square feet, the plan shall be reviewed in accordance with (q) Development Regulations.
 - (2) If the proposed amendment modifies the site plan of the approved plan, the application shall be reviewed by the Planning and Zoning Commission and City Council as a final site plan.
 - (3) Minor revisions to the final site plan may be approved by the Director of Public Works if such revisions satisfy the intent of the approved site plan.

(Ord. No. 9160, §4, 4-18-02; Ord. No. 9611, §1-2, 8-3-06; Ord. No. 9921, §6, 5-20-10)

Secs. A-46.—A-50. Reserved.

(Ord. No. 8861, §1, 10-7-99)

ARTICLE VII. PROVISIONS GOVERNING INDUSTRIAL DISTRICTS

Sec. A-51. I-1 Light Industrial District.

Within the I-1 Light Industrial District the following regulations shall apply:

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes:

It is the intention of this Ordinance to create a Light Industrial Use as one which creates a minimum amount of nuisance outside the plant and which is not noxious or offensive by reason of the emission of smoke, dust, fumes, gas odors, noises or vibrations beyond the confines of the building and the premises upon which the building or buildings are situated.

- (1) Air conditioning and heating sales and service
- (2) Art, book, school supply and stationery stores
- (3) Assembly plants

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- (4) Automobile parts store (retail sales only with no on-site installation of automobile parts or accessory items)
- (5) Automobile washing, including the use of mechanical conveyors, blowers, and steam cleaning
- (6) Bakeries
- (7) Banks, financial institutions, savings and loan associations
- (8) Barbershop, beauty parlor
- (9) Bicycle repair, sales and rental
- (10) Blueprinting and photostating establishments
- (11) Boat showroom
- (12) Bus passenger terminal
- (13) Camera and photographic supply shops for retail sales
- (14) Candy manufacturing
- (15) Catering establishments
- (16) Clothing manufacture
- (17) Clubs and fraternal organizations
- (18) Confectionery manufacture
- (19) Custom dressmaking, millinery, or tailoring when conducted for retail sales on the premises only
- (20) Dairies and dairy processing and manufacturing
- (21) Department stores
- (22) Distributing plants
- (23) Drugs manufacture
- (24) Drugstores
- (25) Dry-cleaning and pressing establishments, when employing facilities for the cleaning and pressing of dry goods received on the premises from retail trade only and not including any wholesale cleaning or pressing business, and when using carbon tetrachloride, perchloroethylene, or other similar nonflammable solvents approved by the fire department and the National Board of Fire Underwriters
- (26) Dry cleaning plants
- (27) Dry goods stores, haberdashery, and wearing apparel
- (28) Dyeing, dry cleaning and laundry works having a boiler with a steam generating capacity no greater than 2,500 pounds of steam per hour and which utilizes in its operations only nonflammable solutions and materials approved by the fire department and the National Board of Fire Underwriters
- (29) Dyeing plants
- (30) Electrical appliance store and repair, but not including appliance assembly and manufacturing
- (31) Electrical parts assembly and manufacture where no outside storage is utilized
- (32) Feed and seed store
- (33) Fibre products manufacture (previously-prepared fibre) where no outside storage is utilized
- (34) Florist shop and conservatory for retail trade on premises only
- (35) Food products manufacture (except fish and meat products, sauerkraut, vinegar, yeast, or rendering or refining of fats and oils)
- (36) Food store
- (37) Frozen food lockers
- (38) Fruit canning and packing establishments
- (39) Funeral homes and mortuaries

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- (40) Furniture stores and upholstery shops
- (41) Furrier, when conducted for retail trade on the premises only
- (42) Garden supplies and seed stores
- (43) Gift stores
- (44) Hardware stores
- (45) Hobby stores
- (46) Hotels and motels
- (47) Household appliance stores and repair shops
- (48) Ice and cold storage plants
- (49) Interior decorating shops, including upholstery and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations and secondary to the main use
- (50) Iron works, ornamental, where no outside storage is utilized
- (51) Jewelry stores and watch repair
- (52) Launderette, laundromat or similar self-service dry cleaning establishment which does not operate before the hour of 7:00 in the morning or after the hour of 10:00 in the evening, and laundry or dry-cleaning pick-up station
- (53) Laundries
- (54) Learning center
- (55) Leather goods and luggage stores
- (56) Leather products manufacture (previously-prepared leather)
- (57) Liquor stores, package goods only
- (58) Machine shops where no outside storage is utilized
- (59) Machinery, farm-sales and service
- (60) Massage Therapy
- (61) Meat markets
- (62) Medical clinics
- (63) Messenger or telegraph service station
- (64) Milk distribution stations
- (65) Motorcycle sales, repair and rental
- (66) Newsstands
- (67) Nonpublic rescue service facilities and other emergency rescue services
- (68) Offices, business and professional
- (69) Optical goods factories
- (70) Outpatient facilities for the treatment of alcohol and other drug abuse as certified by the Department of Mental Health of the State of Missouri
- (71) Off-street parking facilities in an open lot or a covered building
- (72) Paint and wallpaper stores
- (73) Paint mixing and treatment (not employing a boiling process) where no outside storage is utilized
- (74) Paper products manufacture (previously-prepared stock)
- (75) Parabolic antennae. No parabolic antenna may be installed without a building permit.
 - a. The following standards or requirements shall apply to all antennae, building or ground-mounted:
 - 1. Front setback: All parabolic antennae must be behind the plane of the front of existing principal buildings.
 - 2. Side and rear setbacks: All parabolic antennae shall be set back from side and rear lot lines a distance equal to at least their height but no less than required for principal buildings.

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3. Comply with codes: All parabolic antennae must comply with the general setback requirements of principal buildings and the building codes.
 4. Signs: Signs, advertising graphics, or symbols, or identification markings may be allowed on parabolic antennae, provided that there is full compliance with all applicable Code provisions.
- (76) Pencil factories
 - (77) Pet shop or animal hospital when conducted wholly within an enclosed building
 - (78) Photography studio, art gallery or studio, including the developing of film and pictures when conducted as part of the retail business on the premises
 - (79) Plumbing, heating and roofing supply shops when conducted wholly within a building
 - (80) Post office
 - (81) Public utility collection offices
 - (82) Radio and television broadcasting transmitters
 - (83) Research and development organizations
 - (84) Sheet metal shops where no outside storage is utilized
 - (85) Shoe store or shoe repair shop
 - (86) Sign painting shops where no outside storage is utilized
 - (87) Sporting goods store
 - (88) Storage and warehousing firms where no outside storage is utilized
 - (89) Tailor shops
 - (90) Telephone business office or exchange
 - (91) Textile products manufacture
 - (92) Theaters, indoor
 - (93) Tire retreading, recapping, and rebuilding establishments where no outside storage is utilized
 - (94) Tobacco stores
 - (95) Tool manufacture
 - (96) Toy manufacture
 - (97) Trailer sales or rental (house trailers) on an open lot or within a building. All lights used in connection with such business shall be directed away from adjacent residences
 - (98) Typewriter and office equipment sales and service
 - (99) Variety store
 - (100) Wearing apparel shops
 - (101) Welding shops where no outside storage is utilized
 - (102) Wholesale business where no outside storage is utilized
 - (103) Wood products manufacture where no outside storage is utilized
 - (104) Antenna and antenna support structure in accordance with Article X
- (b) *Accessory Uses.* The following accessory uses and structures are permitted and shall not be constructed upon a lot until the construction of the main building has been actually commenced:
- (1) Antennas, one per lot meeting the following criteria:
 - a. Parabolic, ground mounted, not exceeding 12 feet above the adjacent ground level or 12 feet in diameter; or

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- b. Parabolic, building mounted, not exceeding 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter; or
 - c. Receive-only television antenna.
 - d. Antenna and antenna support structure, not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC.
- (2) Off-street motor vehicle parking areas and loading and unloading areas
 - (3) Outdoor restaurant seating meeting the requirements for an accessory use
 - (4) Temporary buildings and uses for construction purposes for a period not to exceed one year
 - (5) Storage of merchandise normally carried in stock on the same lot with any retail service or business use unless such storage is excluded by the district regulations.
- (c) *Special Uses.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
- (1) Airport (100 acres)
 - (2) Amusement or recreational establishments, including bowling alleys, billiards and pool parlors, which must be conducted wholly within an enclosed building
 - (3) Automobile Accessory Stores with retail sales and related installation services, provided that installation is limited to materials sold only on site
 - (4) Automobile and other vehicle sales and service shops, provided that sales of new vehicles shall exceed the sale of used vehicles each year and no streamer lights are used.
 - (5) Artificial lake
 - (6) Building material yards where outside storage is utilized no millwork is done
 - (7) Central mixing plants for cement, mortar, plaster or painting materials
 - (8) Ceramic products manufacturing (Previously pulverized clay, kilns fired only by electricity or gas)
 - (9) Contractors yard
 - (10) Convenience store
 - (11) Convenience/Gas Store (20,000 square feet)
 - (12) Crematory or cemetery (40 acres)
 - (13) Domiciliary home
 - (14) Electrical parts assembly and manufacture where outside storage is utilized
 - (15) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure
 - (16) Fibre products manufacture (previously-prepared fibre) where outside storage is utilized
 - (17) Food/Gas Store (20,000 square feet)
 - (18) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (19) Greenhouse, commercial (25,000 square feet)
 - (20) Group day care homes and day care center
 - (21) Heliport (1 acre)
 - (22) Industrial park (20 acres)
 - (23) Iron works, ornamental, where outside storage is utilized
 - (24) Machine shops where outside storage is utilized
 - (25) Outdoor commercial recreational enterprise (10,000 square feet)

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- (26) Outdoor use
 - (27) Paint mixing and treatment plans (not employing a boiling process) where outside storage is utilized
 - (28) Practice golf driving range, miniature golf course, pitch and putt golf course (10 acres)
 - (29) Private recreational development. (15,000 square feet)
 - (30) Private or commercial sewage facility
 - (31) Private or commercial trash or garbage disposal plant (20 acres)
 - (32) Produce terminal, wholesale (20 acres)
 - (33) Antenna support structure in accordance with Article X
 - (34) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri.
 - (35) Restaurant (20,000 square feet)
 - (36) Restaurant, outdoor seating not permitted as an accessory use
 - (37) Sale and display of antique and classic automobiles
 - (38) Scrap metal and household appliances recycling center (17,000 square feet)
Minimum dimension one hundred ten (110) feet. All areas used for compaction shall be paved with a minimum of seven (7) inch thick concrete and shall cover a minimum of two thousand (2,000) square feet. All other areas used for storage, parking or traffic lanes shall be paved with a minimum of one and one-half (1½) inch thick asphaltic concrete surface coat on a six (6) inch thick compacted crushed stone base course or its equivalent. The recycling center shall be limited to receiving or storing source-separates scrap aluminum, copper, brass, iron and steel and major appliances as defined in chapter 260 RSMo. It will be attended when open, have a perimeter fence and gates a minimum of six (6) feet high and a planting screen at least eight (8) feet high that provides an effective visual screen to be maintained along all streets in an area ten (10) feet wide and in an area twenty (20) feet wide when abutting a residential area. All federal, state and local environmental laws and regulations will be adhered to.
 - (39) Service station, public garages, major and minor automobile repair or other vehicle services and storage (20,000 square feet)
 - (40) Sheet metal shops where outside storage is utilized
 - (41) Sign painting shop where outside storage is utilized
 - (42) Standard outdoor advertising structures
 - (43) Storage and warehousing firms where outside storage is utilized
 - (44) Tire retreading, recapping, and rebuilding establishments where outside storage is utilized
 - (45) Truck freight terminal
 - (46) Trucking terminals
 - (47) Utility substation
 - (48) Welding shops where outside storage is utilized
 - (49) Wholesale business where outside storage is utilized
 - (50) Wood products manufacture where outside storage is utilized
- (d) *Height.* No building shall exceed three (3) stories or thirty-five (35) feet in height except the following shall be permitted only upon approval of the Planning and Zoning Commission:

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- (1) Chimneys, cooling towers, elevator bulkheads, stacks, tanks, or other necessary mechanical appurtenances, extending more than twenty (20) feet above the roofline of a structure.
 - (2) Monuments, ornamental towers, or spires, extending more than eighty (80) feet above grade.
 - (3) Central mixing plans extending more than thirty-five (35) feet above grade.
- (e) *Yard areas.* More than one industrial, commercial, or institutional building may be erected upon a single lot but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such building, nor shall there be any change in the intensity of use requirements. No building or structure shall be constructed or enlarged unless the following yards are provided and maintained in connection with such building, unless otherwise provided herein.

Exception: (i) The ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twelve (12) inches; (ii) open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five feet; and (iii) the ordinary projections of chimneys and flues.

- (1) Front yard:
 - a. All buildings and structures shall have a front yard depth of at least thirty-five (35) feet.
 - b. Buildings and structures placed on corner lots shall observe front yard requirements on both streets.
 - c. On through lots the required front yard of thirty-five (35) feet shall be provided on both streets.
 - d. An unenclosed porch not more than one story in height or paved terrace may project into the required front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into the required front yard for a distance not to exceed four feet.
 - e. In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted in the following manner:
 1. The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots.
 2. The front yard setback for a lot located (1) between an improved lot on one side and vacant lot on the other side or (2) between an improved lot and a street or (3) between a vacant lot and a street shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage.

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- f. No yard shall be required for those portions of lots which adjoin railroad rights-of-way.
- (2) Side yard
- a. All buildings and structures shall have side yard widths of at least fifteen (15) feet.
 - b. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above grade may project into a required yard, but not closer than two (2) feet to the adjacent side lot line.
 - c. All buildings and structures on lots adjacent to "R" Dwelling Districts shall be located so as to provide side yard widths of at least thirty-five (35) feet adjacent to such "R" Dwelling Districts.
 - d. No yard shall be required for those portions of lots which adjoin railroad rights-of-way.
- (3) Rear yard
- a. All buildings and structures shall have rear yard depths of at least twenty (20) feet. In computing the depth of a rear yard, where outside storage is utilized such yard opens onto an alley, one-half (½) of the alley width may be included as a portion of the rear yard.
 - b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage.
 - c. An unenclosed porch not more than one story in height or paved terrace may project into the required rear yard for a distance not exceeding ten (10) feet.
 - d. All buildings and structures on lots adjacent to "R" Dwelling Districts shall be located so as to provide rear yard depths of at least thirty-five (35) feet adjacent to such "R" Dwelling Districts.
 - e. No yard shall be required for those portions of lots which adjoin railroad rights-of-way.
- (f) *Off-street parking and loading facilities.* Shall be provided as required in Article XI of this Ordinance.
- (g) *Planting areas:*
- (1) Landscape development shall be required to include an area of at least ten (10) feet in width along all streets, with the exception of approved entrances which

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border the proposed development, to be planted and maintained with plants and shrubbery not to exceed three (3) feet in height, to serve as a screen for the parking and storage areas.

- (2) A planting screen, consisting of suitable shrubbery, maintained at an eight (8) foot height by twenty (20) foot width, shall be planted wherever the industrial use abuts an "R" Dwelling District. Such screen, however, shall terminate ten (10) feet from the street right-of-way line.

(h) *Construction* is subject to site plan review as outlined in Article IV.

(Ord. No. 9160, §§5, 9, 4-18-02; Ord. No. 9921, §7, 5-20-10)

ARTICLE VIII. PROVISIONS GOVERNING SPECIAL DISTRICTS

Sec. A-52. F-1 Flood Plain District.

The Flood Plain District is designed to meet the needs of the Meramec River to carry abnormal flows of water in time of flood; to prevent encroachments into the district which will unduly increase flood heights and damage; and to prevent the loss of life and excessive damage to property in the area of greatest flood hazard. Within the Flood Plain District, the following regulations shall apply:

- (a) *Permitted uses.* A building or premises shall be used only for the following purposes:
 - (1) Agricultural uses
 - (2) Carnivals, circuses, and similar transient amusement enterprises
 - (3) Public and private recreational uses of open land such as public parks, camps, golf courses, racetracks, and archery ranges provided that all structures are firmly anchored to prevent the structure from floating away
 - (4) Antenna and antenna support structure in accordance with Article X
- (b) *Accessory Uses.* The following accessory uses and structures are permitted and shall not be constructed upon a lot until the construction of the main building has been actually commenced:
 - (1) Antennas, one per lot meeting the following criteria:
 - a. Parabolic, ground mounted, not exceeding 12 feet above the adjacent ground level or 12 feet in diameter; or
 - b. Parabolic, building mounted, not exceeding 3 feet above the maximum height (peak) of the building on which it is located or 2.5 feet in diameter; or
 - c. Receive-only television antenna.
 - d. Antenna and antenna support structure, not exceeding 55 feet in height owned and operated by an amateur radio operator licensed by the FCC.
 - (2) Off-street motor vehicle parking areas and loading and unloading areas.
 - (3) Temporary buildings and uses for construction purposes for a period not to exceed one year

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- (4) Storage of merchandise normally carried in stock on the same lot with any retail service or business use unless such storage is excluded by the district regulations.
- (c) *Special Uses.* The following uses and structures may be authorized under Article IX when such use or structure adheres to the minimum lot area specified.
 - (1) Airport (100 acres)
 - (2) Artificial lake
 - (3) Country club (75 acres)
 - (4) Expansion, extension, enlargement, or alteration of a legally nonconforming use or its structure in accordance with Article XIII, section 1
 - (5) General offices, professional and business (no retail sales on premises), health care activities, in buildings formerly used as school buildings (3 acres)
 - (6) Group day care homes and day care center
 - (7) Heliport (1 acre)
 - (8) Outdoor commercial recreational enterprise (10,000)
 - (9) Outdoor use
 - (10) Practice golf driving range, miniature golf course, pitch and putt golf course (10 acres)
 - (11) Private recreational development. (15,000 square feet)
 - (12) Private or commercial sewage facility
 - (13) Antenna support structure in accordance with Article X
 - (14) Residential facilities for the treatment of alcohol or other drug abuse as certified by the Department of Mental Health of the State of Missouri.
 - (15) Utility substation
- (d) *Construction* is subject to site plan review as outlined in Article IV.

Secs. A-53.—A-60. Reserved.

ARTICLE IX. SUPPLEMENTARY REGULATIONS

Sec. A-61. Special use exceptions, requirements and procedure.

(a) In addition to the buildings, structures, or uses permitted by this ordinance in each of the zoning districts, the additional special uses listed in each zoning district shall be permitted in the districts specified for each particular type of use under the conditions set out in paragraphs (b) and (c) of this section.

(b) Granting of a special use exception for any of the uses set forth in paragraph (a) hereof shall, in addition to the conditions set forth in paragraph (c) hereof, take into account the matters hereinafter set forth when applicable, and any one or more of such matters may be made a condition of the granting of the special use exception.

- (1) That the minimum yard requirements of the district in which the use is to be located are observed.

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- (2) That provision is made for appropriate lighting which will not disturb adjacent property or affect traffic on adjacent rights-of-way.
- (3) That there is appropriate provision for greenery planting and its maintenance, both for division purposes from adjacent rights-of-way and also from adjacent properties, which planting may be required to be as high as eight (8) feet when for the purpose of screening from adjacent properties, and of sufficient width to accomplish the purpose.
- (4) That the area or necessary portions thereof are adequately fenced so as to prevent unauthorized persons from having access to the area, which fencing may be required to a height of six (6) feet.
- (5) That there is adequate off-street parking, taking into account the number of employees and number of members of the public that will be using the area.
- (6) That appropriate provision is made for paving all parking and drive areas.
- (7) That appropriate provision is made for all sanitary sewage and storm water run-off.
- (8) That adequate provision is made for off-street loading and unloading docks or other facilities.
- (9) That adequate provision is made for ingress and egress to abutting rights-of-way.
- (10) That there is adequate area for the intended use, which area may be greater than the minimum specified in paragraph (a) of this section and which shall be sufficient to protect all surrounding properties, taking into account all aspects of the intended use.
- (11) In off-street parkings for public use or for employee, no sales, dead storage, repair work, nor dismantling of automobiles shall be permitted. Except for the approved exits and entrances, the parking area shall be screened or enclosed in such manner as approved by the building commissioner or it shall be screened or enclosed by a planting screen not less than ten (10) feet in width as approved by the city forester and adequately maintained, provided that a planting screen shall not be required within ten (10) feet of any public street or right-of-way.
- (12) That adequate provision has been made for the disposition Of refuse and rubbish, garbage or other materials.
- (13) That there is reasonable assurance that the proposed project or development will be completed if authorized and to guarantee such completion a bond may be required.
- (14) That in the case of standard outdoor advertising structures, such proposed structures will not:
 - a. Impair the visibility of adjacent businesses, or their permitted signs, or
 - b. Be inappropriate to the aesthetic environment of the surrounding structures and land use to the extent it would decrease property values, or

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c. Impair an adequate amount of light or air to adjacent property.

(c) *Application procedure:*

(1) Applications for special use exceptions for new uses, construction, extensions or alterations, or for extensions or alterations of existing uses and uses previously authorized shall be made to the city council on forms provided by the city, together with a complete site plan and necessary descriptive material sufficient to define clearly the intensity and extent of the intended use. The city council shall forthwith refer the application to the city planning and zoning commission to investigate and report as to the matters set forth in paragraph (b) hereof, and the effect of such building, buildings, structures or uses upon traffic hazards or congestion, fire hazards, the character of the neighborhood, the general welfare of the community, and the public utility facilities, which report shall be accompanied by a recommendation. A fee in accordance with Chapter 5, Article VI “Fee Schedule” shall be paid. The city planning and zoning commission shall file its report and recommendations with the city council within one hundred twenty (120) days after the date of reference to said commission. In default of filing such report and recommendation within the time provided, the planning and zoning commission shall be deemed to have found all factors of the application satisfactory and to have recommended approval.

- a. In the event that an applicant to whom a special use exception has been granted fails to commence construction contemplated by such exception within one year after the date such exception was granted, the special use exception shall terminate one year after the granting of such special use exception unless the exception had been extended as provided below.
- b. Any applicant desiring to extend the period in which construction shall commence under a special use exception shall, no later than thirty (30) days prior to the date such special use exception shall terminate, submit a written request to the city council setting forth the reasons such exception should be extended. The city council shall extend such application for an additional one year from the anticipated date of expiration, unless the conditions appertaining to the granting of such special use exception have materially changed and such special use exception would not have been granted if an original application were then submitted. Subsequent one year extensions may be granted provided no more than three (3) such extensions maybe granted. No special use exception shall be deemed to terminate pending consideration by the city council of a timely filed application for extension.
- c. Unless expressly authorized at the time of the granting of a special use exception, or upon subsequent application after notice and hearing in the same manner as provided for in the original application, all construction and site development must be completed within eighteen (18) months after the date of the granting or renewal of the special use exception or the special use exception shall terminate.
- d. Any applicant to whom a special use exception has been granted but which has terminated as provided herein may apply for a new special use exception in the same manner and subject to all provisions appertaining to an original application.

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- e. The site plan submitted for a special use exception shall include the information outlined in Article IV, section 2(c)2.
- (2) Upon receipt of the report and recommendation of the city planning and zoning commission, the council shall hold a public hearing in relation to the matter, shall give notice of the time and place by causing a notice thereof to be published at least one time in a newspaper printed, published or of general circulation in the City of Kirkwood. The publication of said notice shall be at least fifteen (15) days prior to the day of the hearing. The council shall, in addition, give notice by first class mail to all property owners as shown by the tax records of the city within three hundred (300) feet of the boundaries of the tract of land for which the application is filed.
 - (3) After such hearing, the council shall determine whether such buildings, structures, or use will:
 - a. Substantially increase traffic hazards or congestion.
 - b. Substantially increase fire hazards.
 - c. Adversely affect the character of the neighborhood.
 - d. Adversely affect the general welfare of the community.
 - e. Overtax public utilities.
 - (4) If the council's findings be negative as to all the subjects referred to in a, b, c, d and e in subparagraph (3) of this section [paragraph], and all applicable matters under paragraph (b) have been adequately provided for, then the application shall be granted in accordance with the conditions specified; if affirmative as to any of the matters set forth in subparagraph (3) or if any of the matters set forth in paragraph (b) are not adequately provided for, then such permit shall be denied.
 - (5) Any applicant who shall accept and begin its use pursuant to a special use exception granted pursuant to this ordinance shall be deemed to have accepted all of the conditions made a part thereof, and in the event that said applicant shall then or in the future fail to comply with any of the conditions made a part of the special use exception, the council after hearing and upon notice having been given in the same manner provided for the original application, may revoke such special use exception.
 - (6) Except as provided in subsection (c)(1)b above, in the event that an applicant to whom a special use exception has been granted fails to proceed thereunder for a period of one year after the effective date when said exception was granted, said applicant shall be deemed to have abandoned the same and the special use exception shall terminate. In the event building permits were taken out during the one year period, but are then allowed to expire, thereafter, or do expire, the applicant shall be deemed to have abandoned the special use exception and it shall thereupon terminate upon the expiration of the building permits. Unless expressly authorized at the time of the granting of the special use exception, or upon subsequent application after notice and hearing in the same manner as provided for the original application, all construction and site development must be completed within eighteen (18) months after the date of the granting of the special use exception, or the special use exception shall be deemed to have been abandoned and shall thereupon terminate.

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- (d) At the effective date of this ordinance an existing lawful use which is set forth as a special use exception in paragraph (a) of this section and which is located in a district in which such special use exception may be permitted shall be deemed a conforming use hereunder and not a nonconforming use.
- (e) If the nature of the special use exception involves more than one of those listed in paragraph (a) hereof, the applicant may apply for a permit for the special use exception which most closely relates to the primary use, provided that the requirements of all related uses shall also be met.
- (f) When a use authorized by a special use permit is abandoned for 30 consecutive days, the permit shall automatically terminate and the property shall thereafter be in conformity with the regulations of the zoning district. The term “abandoned” shall mean the voluntary discontinuance of the use.

Editor's note--Section 12 of Ord. No. 7693, adopted Dec. 17, 1987, amended App. A, Art. IX, by adding a subsection (2) to §1(c). For classification purposes, and inasmuch as there exists a subsection 1(c)(2), the editor has codified §12 of the ordinance as Art. IX, §1(c)(1)e.

Sec. A-62. Certified buildings.

(a) Upon application of a property owner or purchaser under contract, on a form prepared by the building commissioner of the city for that purpose, the planning and zoning commission shall consider buildings which are residential in character and located within a business district to be "certified buildings" subject to the exception set forth in Article 3, Section 316 of the building code.

(b) Such buildings may be "certified" if the planning and zoning commission determines:

- (i) That such building has architectural features which are desirable to retain in the area in which it is located, and
- (ii) That the proposed use represents the highest and best economic use of the property considering the zoning regulation in the area in which the property is located.

(c) That any person aggrieved by the decision of the planning and zoning commission with respect to such application may within thirty (30) days after such decision file a notice of appeal to the city council with the administrative director/city clerk. The city council may reverse, amend or modify such decision.

(d) The "certification" granted herein shall expire upon a change in use or occupancy of the structure or in the event the structure is vacant or not in use for a period in excess of one hundred twenty (120) days.

(Ord. No. 6704, §1, 3-19-81)

Cross reference--Landmarks commission, Ch. 12½.

(Ord. No. 5370, §1(b), 11-12-70; Ord. No. 5401, §1(m)-(o), 5-13-71; Ord. No. 5834, §1, 6-12-75; Ord. No. 5872, §1, 10-2-75; Ord. No. 5895, §1, 11-20-75; Ord. No. 6095, §1, 3-24-77; Ord. No. 6096, §1, 3-24-77; Ord. No. 6122, §2, 4-21-77; Ord. No. 6132, §2, 5-12-77; Ord. No. 6133, §2, 5-12-77; Ord. No.

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6141, §3, 6-2-77; Ord. No. 6223, §2, 1-19-78; Ord. No. 6396, §1, 3-15-79; Ord. No. 6465, §§1,2, 9-6-79; Ord. No. 6560, §1, 3-13-80; Ord. No. 6837, §2, 3A-82; Ord. No. 6985, §1, 1-20-83; Ord. No. 7065, §1, 7-21-83; Ord. No. 7117, §1, 11-3-83; Ord. No. 7379, §1, 8-1-85; Ord. No. 7452, §4, 1-16-86; Ord. No. 7520, §1, 5-1-86; Ord. No. 7689, §3, 9-3-87; Ord. No. 7693, §12, 10-1-87; Ord. No. 7757, §2, 3-17-88; Ord. No. 7768, §5, 6-2-88; Ord. No. 7807, §1, 9-15-88; Ord. No. 7883, §4, 5-4-89; Ord. No. 7938, §2, 1-18-90; Ord. No. 8125, §1, 3-26-91; Ord. No. 8146, §2, 8-6-92; Ord. No. 8463, §1, 11-2-95; Ord. No. 8484, §1, 1-18-96; Ord. No. 8485, §3, 2-1-96; Ord. No. 8814, §1, 5-6-99)

ARTICLE X. COMMUNICATION ANTENNAE AND SUPPORT STRUCTURES

Sec. A-63.

(a) *General Requirements.*

(1) Antenna Support Structures over 150 Feet in Height

Any antenna support structure which is proposed to be in excess of one hundred fifty (150) feet in height shall require a special use permit and shall require a clear showing that such height is required to provide personal wireless services, or reasonably required for public safety communications of a governmental entity sharing the antenna support structure, and such showing is 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 which exceed the height limitation, or the reason why such alternatives are not viable.

(2) Lighting

Antennae and antenna support structures shall not be lighted unless required by the FAA or a state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made part of the application to install, build, or modify the antenna or antenna support structure.

(3) Advertising

Unless a disguised support structure is in the form of an otherwise lawfully placed pylon sign, the placement of signs on structures regulated by this Section is prohibited.

(4) Design

- a. Unless subject to the requirements of the FAA or any applicable state or federal agency, towers shall maintain a galvanized steel finish or be painted a neutral color consistent with the natural or built environment of the site.
- b. Antenna equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site, and may also be brick or other masonry material as required by the Planning and

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Zoning Commission or by the City Council in the case of a Special Use Permit.

- c. Antennae attached to a building or antenna support structure shall be painted a color identical to, or compatible with, the surface to which they are mounted.
- d. All towers shall be surrounded by a landscape strip of not less than ten (10) feet in width, and planted with materials which will provide a visual barrier of a minimum height of six (6) feet. Evergreen trees should be at least six (6) feet tall, and deciduous trees at least two and one-half (2½) inch in caliper. Said landscape strip shall be exterior to any security fencing. In lieu of the required landscape strip, a minimum six (6) foot high decorative fence or wall may be approved by the Planning and Zoning Commission in the case of a site plan review or by the City Council in the case of a Special Use Permit.
- e. All towers shall be set back from any adjacent residentially zoned property a distance equal to the height of the tower unless otherwise modified by a special use permit approved by the City Council. In all cases, towers shall maintain setbacks as are required by the zoning district regulations.
- f. Ground anchors of all guyed towers shall be located on the same parcel as the tower and meet the setbacks of the applicable zoning district.
- g. Vehicle or outdoor storage on any antenna support structure site is prohibited.
- h. On-site parking for periodic maintenance and service shall be provided at all antenna or antenna support structure locations. Access to and parking for antenna or antenna support structure locations shall be provided on a paved surface.

(5) Shared Use

- a. In order to maximize the use of an existing or proposed wireless tower, the tower owner shall, prior to the issuance of any building permit or Special Use Permit to alter or modify any tower existing on the effective date of this Ordinance, provide to the City a written and notarized statement agreeing to make said tower available for use by others subject to reasonable technical limitations and reasonable financial terms. The willful and knowing failure of a tower owner to agree to shared use or to negotiate in good faith with potential users shall be cause for the withholding of future permits to the same tower owner to install, build or modify antennae or antenna support structures within the City.
- b. Any new tower at a height of sixty (60) feet above ground level or higher shall be designed and constructed to accommodate at least one (1) additional user unless a larger number is indicated by the City. In

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addition, the tower shall be designed and constructed to reasonably accommodate use by the City. 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 cause for the withholding of future permits to the same owner to install, build or modify antennae or antenna support structures within the City.

These general requirements shall be observed unless otherwise waived or modified by a site plan review approval by the Planning and Zoning Commission or a Special Use Permit approval by the City Council as applicable.

(b) *Permitted Use.*

Upon receipt of the appropriate Building Permit, the following are allowed:

- (1) The attachment of additional antennae or the replacement of antennae to any tower or the addition of replacement of antenna equipment shelters existing on the effective date of this Ordinance or subsequently approved in accordance with these regulations, provided that additional antenna equipment shelters or cabinets are located within the existing antenna support structure site.
- (2) The mounting of antennae in or on any existing building or structure (such as a water tower, church steeple, billboard, utility pole, or tower used for high voltage electric lines) provided that the building or structure has been in service for at least one year in a functional use prior to application and provided that the height of the antenna does not exceed 20 feet from its mounting.
- (3) The installation of antennae on buildings or structures or the construction of an antenna support structure on land owned by the City of Kirkwood following the approval of a lease agreement by the City Council.
- (4) The maintenance without alteration of any antenna support structure existing on the date of the enactment of this Ordinance. Modification to an existing antenna support structure, including but not limited to the replacement or addition of any antennae or equipment shelters, shall be subject to all the provisions of this Ordinance.

(c) *Site Plan Review Approval.*

Prior to the issuance of a building permit, the following shall be reviewed by Planning and Zoning under the Site Plan Review procedures of this Code:

- (1) The enlargement of the existing antenna support structure site.
- (2) The one-time replacement of any antenna support structure existing on the effective date of this Ordinance 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. The new antenna support structure shall be of the same type as the original, except that a guyed or self-

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supporting (lattice) tower may be replaced by a monopole or disguised support structure. The height of the new antenna support structure may exceed that of the original by not more than twenty (20) feet.

- (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. Equipment may be placed in a cabinet, if the disguised support structure is accessory to an industrial, commercial, institutional, or other nonresidential use.
- (4) The construction of a new antenna support structure if said antenna support structure complies with all the provisions set out in this ordinance, and is located within a potential antenna site as identified by the Telecommunications Master Plan, which is made a part of this ordinance as if fully set out herein.

(d) *Special Use Permit Required.*

All proposals to install, build, or modify an antenna support structure not covered under subsections (b) or (c) above or required by the Zoning District regulations shall require the applicant to obtain a special use permit, and, in so doing, the applicant shall affirmatively show the reasons why the antenna cannot be located or constructed in such a manner to satisfy those subsections. The applicant shall be required to meet the requirements of a Special Use Permit.

- (1) Applications for Special Use Permits shall be filed and processed in the manner and time frame as established for all other Special Use Permits under the Zoning Code and shall include the following additional information:
 - a. An analysis of the area containing existing topographical contours, and
 - b. an inventory of all of that owner's antennae in or within one-half mile of the City limits of Kirkwood. The inventory shall include the antennae reference name or number, the street location, latitude and longitude, structure type, height, type and mounting height of existing antennae, and an assessment of available ground space for the placement of additional equipment shelters, and
 - c. a statement of the conditions which render unsuitable the potential antenna site area as identified by the Telecommunication Master Plan and any existing tower, structures, and buildings within the applicants required geographic area.
- (2) Findings Required: In addition to any other determinations specified by the Zoning Ordinance for the consideration of Special Use Permits, the Planning Commission shall make findings as to the following:
 - a. The proposed antenna support structure is not and cannot be located within a potential antenna site area as designated by the Telecommunications Master Plan.

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- b. There are other limiting conditions that render existing towers, structures or buildings within the applicant's required geographic area unsuitable.
- c. The design of the tower or structure, including the antennae, shelter, and ground layout maximally reduces visual degradation and otherwise comply with the provisions and intent of this ordinance.
- d. The proposal minimizes the number and size of the towers or structures that will be required in the geographic area surrounding the proposed site.
- e. The applicant attempted to take advantage of available shared use options provided by this ordinance or otherwise.

(e) *Tower Removal.*

Any tower, or the upper portion of any tower, which is occupied by inactive antennae for a period of twelve (12) months shall be considered a public nuisance and the tower and support structure including footings, where appropriate, be removed at the owner's expense. Removal of upper portions of a tower manufactured as a single object shall not be required.

(Ord. No. 8739, §1, 6-18-98)

Secs. A-64.—A-70. Reserved.

ARTICLE XI. OFF STREET PARKING AND LOADING REQUIREMENTS

Sec. A-71.

The off-street parking and loading requirements hereinafter set forth in this Article supplement the district regulations for each of the districts, pursuant to this Ordinance.

General provisions:

- (1) Procedure. An application for a building permit for a new or enlarged building, structure or use shall include therewith a plot plan, drawn to scale, and fully dimensioned showing any off-street parking or loading facilities to be provided in compliance with the requirements of this Ordinance.
- (2) Extent of control. The off-street parking and loading requirements of this Ordinance shall apply as follows:
 - a. All buildings and structures erected and all land uses initiated after the effective date of this Ordinance shall provide accessory off-street parking or loading facilities as required herein for the use thereof.
 - b. When a building or structure erected or enlarged shall undergo a decrease in number of dwelling units, gross floor area, seating capacity, number of

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employees, or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and, further, when said decrease would result in a requirement for fewer total off-street parking or loading spaces through application of the provisions of this Ordinance thereto, off-street parking and loading facilities may be reduced accordingly, provided that existing off-street parking or loading facilities shall be so decreased only when the facilities remaining would at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this Ordinance to the entire building or structure as modified.

- c. When a building or structure shall undergo any increase in number of dwelling units, gross floor area, seating capacity, or other unit measurement specified hereinafter for required off-street parking or loading facilities, and further, when said increase would result in a requirement for additional total off-street parking or loading spaces through application of the provisions of this ordinance thereto, parking and loading facilities shall be increased accordingly.
- (3) Existing off-street parking and loading spaces. Accessory off-street parking and loading spaces in existence on the effective date of this Ordinance may not be reduced in number unless already exceeding the requirements of this Article for equivalent new construction; in which event, said spaces shall not be reduced below the number required herein for such equivalent new construction.
 - (4) The change of use of any premises or the remodeling of any existing building within the area bounded by Bodley Avenue to the north, Taylor Avenue to the east, Woodbine Avenue to the south, and Clay Avenue to the west, shall be exempt from additional parking requirements. However, existing premises shall not decrease their existing parking, including spaces leased to the City. New buildings and additions to existing buildings shall meet the parking requirements in this section.

Sec. A-72.

The parking regulations set forth in this section shall be applicable in all districts pursuant to this Ordinance.

- (a) *Parking regulations.*
 - (1) Special parking regulations in residential zoning districts:
 - a. Prohibited vehicles. The following vehicles shall be prohibited from being parked in residential zoning districts:
 - 1. All vehicles, except camping vehicles, that have dual rear wheels.
 - 2. All vehicles that have a dump-type bed.
 - 3. All motorized construction equipment.

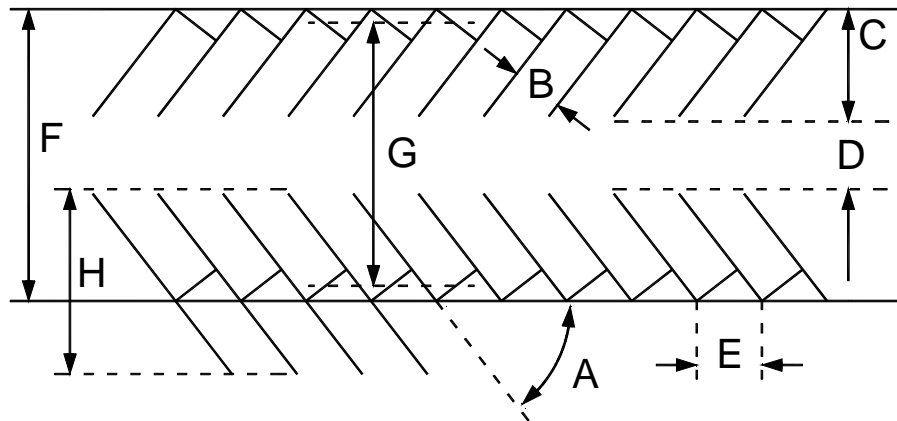
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4. All vehicles that exceed ten (10) feet in height above the grade.
 5. All trailers used to transport equipment or construction vehicles.
 6. No more than one (1) vehicle outlined in paragraph (b) herein.
- b. Special regulations permitted vehicles. The following vehicles shall be parked behind the front line of the existing house and screened from view from adjacent property:
1. Vehicles that exceed seven (7) feet six (6) inches in height above grade.
 2. All trailers not prohibited in subparagraph a., item 5., above.
- (2) Joint parking facilities. Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use and not more than 300 feet from the lot on which the main building is located, except as provided in paragraph (b)(1)e of this section.
- (3) Not more than fifty per cent of the parking spaces required for (a) theaters, and places of amusement, and up to one hundred per cent of the parking spaces required for a church may be provided by and used jointly with (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a); provided, however, that written agreement, assuring the retention for such purpose, shall be properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney, and filed with the application for a building permit.
- (4) Control of off-site facilities. When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use served is located or when such spaces are collectively or jointly provided and used, they shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use or uses, and the owner shall be bound by covenants filed of record in the office of the Recorder of Deeds, requiring the owner and the owner's heirs, successors and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.
- (5) Permitted districts for accessory parking. Accessory parking facilities provided elsewhere than on the same zoning lot with the principal use served in accordance with the requirements below, may be located in any zoning district except as follows:
- a. No parking facilities accessory to a business or manufacturing use shall be located in a Residential District except when authorized by the City Council as hereinafter prescribed.

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- (6) Non residential parking in residential districts. Accessory off-street parking facilities serving a religious institution is permitted and accessory off-street parking facilities serving any other nonresidential uses of property may be permitted pursuant to a special use permit subject to the following requirements in addition to all other relevant requirements:
- a. The parking lot shall be accessory to, and for use in connection with, one or more nonresidential establishments located in adjoining districts or in connection with one or more existing professional or institutional office buildings or institutions, if the parking lot proposed is within three hundred (300) feet of the nonresidential use which it is to serve.
 - b. Said parking lot shall be used solely for the parking of passenger automobiles.
 - c. No commercial repair work or service of any kind shall be conducted on said parking lot.
 - d. No sign of any kind other than signs designating entrances, exits, and conditions of use, shall be maintained on said parking lot, and they shall not exceed twenty square feet in area.
 - e. Parking lot lights shall be directed away from adjacent residences and shall be turned off when the lot closes.
 - f. Each entrance to and exit from said parking lot shall be at least twenty feet distant from any adjacent property located in any residential district, except where ingress and egress to the parking lot is provided from a public alley or public way separating the residential areas from the proposed parking lot.
 - g. All nonresidential parking in residential areas shall be adequately screened from surrounding residential property by planting, fencing or both.
 - h. The foregoing requirements set forth in paragraphs a. through g. are minimum requirements and additional requirements may be made a part of the special use exception.
- (7) Design and maintenance:
- a. Parking spaces for single-family and two-family shall be an area of not less than one hundred and seventy-one (171) square feet nor less than nine feet wide by nineteen feet long
 - b. Parking lot design shall be in compliance with the following:

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	A = Angle of Parking		
	45°	60°	90°
B = Stall Width	9.0'	9.0'	9.0'
C = Vehicle Projection	19.7'	21.0'	19.0'
D = Aisle Width	12.5'	17.5'	22.0'
E = Curb Length per Stall	12.7'	10.5'	9.0'
F = Width of Bay	51.9'	59.5'	60.0'
G = Width of Bay, double	45.6'	55.0'	60.0'
H = Width of double stalls	33.1'	37.5'	38.0'

- c. Parallel parking spaces shall have a minimum width of 9 feet and a minimum length of 24 feet adjacent to a minimum 12 foot wide aisle.
- d. Aisles or lanes designated by the Fire Department shall be a minimum of 18 feet wide.
- e. Additional aisle width and turning radii may be required by the Director of Public Works or Planning and Zoning Commission to accommodate emergency vehicles, large vehicles, equipment, vehicles with trailers, or when the aisle serves as a principle means of access and/or circulation within the site including access to loading spaces, drive-through facilities, or trash storage facilities.

The Public Works Director or the Planning and Zoning Commission may authorize a reduction in the stall depth where the parking stall fronts along a curbed perimeter where there is sufficient clearance between the curb and vehicle overhang which will not result in an obstruction to pedestrians on adjacent sidewalk. The following reduction may apply if so authorized:

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Parking Stall Angle	Allowable Reduction in Stall Depth	Minimum Overhang Clearance
45°	1'-6"	2'-6"
60°	1'-9"	2'-9"
90°	2'-0"	3'-0"

- f. Measurement of space. When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be interpreted as one parking space.
- g. Access. Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such manner as will least interfere with the movement of traffic, and so as to provide adequate maneuvering area for the vehicle to turn around where only one entry or exit is provided in order that no backing of vehicles into the street or alley is required. No driveway or curb cut in any district shall exceed forty feet in width, and the location of such driveway or curb cut shall be subject to the approval of the City Engineer on the basis of providing the minimum traffic interference.
- h. Striping. All parking spaces shall be properly marked by durable paint in stripes a minimum of four (4) inches wide and extending the length of the parking space.
- i. Required setbacks. In residential districts, no parking space or portion thereof shall be located within the required front yard or closer to any street line than the established building lines on adjacent properties. In B-1, Neighborhood Business District, and in B-3, Highway Business District, no parking space, or portion thereof, shall be located closer to any street right-of-way line than ten feet.
- j. Surfacing. All open off-street parking lots shall be paved. The minimum pavement permitted shall consist of a one and one-half (1½) inch thick asphaltic concrete surface course on a six (6) inch thick compacted crushed stone base course.
- k. Lighting. Any lighting used to illuminate an off-street parking area shall be so arranged as to deflect the light away from all surrounding properties, including street rights-of way.
- l. Storm water. Adequate storm water drainage facilities shall be installed in order to insure that storm water will not collect upon the parking areas and remain there and to insure that storm water will not flow onto abutting property or abutting sidewalks.

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- m. Planting screens. All parking lots shall be separated from abutting streets by planting areas, not less than ten (10) feet in width, on private property. Planted area shall be planted and maintained with live landscape material, such as trees, plants or shrubbery. In the event any location is subject to more than one provision with respect to planting areas, the more restrictive provision shall apply.
- (b) *Location of parking areas:*
- (1) Extent of control. Off-street automobile parking facilities shall be located as hereinafter specified; where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.
 - a. For one and two family dwellings—on the same lot with the building they are required to serve.
 - b. For three and four family dwellings not over two stories in height, row dwellings not over one and one-half stories in height on the same lot or parcel of land as the building they are required to serve. For the purpose of this requirement, a group of such uses constructed and maintained under a single ownership or management shall be assumed to be on a single lot or parcel of land.
 - c. For apartment houses containing four or more dwelling units—on the same lot or parcel of land as the building they are required to service, or on a separate lot or parcel of land not more than three hundred feet from the nearest entrance to the main building being served, provided the lot or parcel of land selected for the parking facilities is located in an apartment district or a less restricted district.
 - d. For clubs, hospitals, sanitariums, orphanages, homes for the aged, convalescent homes, and for other similar uses—the off-street parking facilities required shall be on the same lot or parcel of land as the main building or buildings being served, or upon properties contiguous to the zoning lot upon which is located the building or buildings they are intended to serve.
 - e. For uses other than those specified above, off-street parking facilities shall be provided on the same lot or parcel of land as the main building being served, or on a separate lot or parcel of land not over one thousand feet from any entrance of the main building measured from the nearest point of the parking area, provided the separate lot or parcel of land intended for the parking facilities is located in the same district as the principal permitted use or in a less restricted district.
- (c) *Schedule of minimum off-street parking requirements.* The following sets forth the minimum off-street parking requirements for the districts in accordance with the use of the premises. All parking provided shall be on paved areas behind the front building line

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except as otherwise provided in this ordinance. Gross Building Area and Usable Area shall be calculated in accordance with ANSI/BOMA Z65.1.1996.

- (1) One and two-family dwellings. Two parking spaces for each family dwelling unit.
- (2) Three or more family dwellings. Two parking spaces for each unit plus an additional 0.25 parking spaces for each unit containing more than 1,500 square feet. In addition, multi-family buildings shall provide one visitor/service parking space for every three units. The visitor/service parking shall be unobstructed, easily-accessed surface parking. The surface parking spaces shall be used only for motorized vehicular parking.
- (3) Bowling alleys, recreation centers, swimming pools, skating rinks and other recreation and amusement facilities. One parking space for every five (5) customers computed on the basis of maximum servicing capacity at any one time plus one (1) additional space for every two (2) persons regularly employed on the premises.
- (4) Club houses and permanent meeting places of veterans, business, civic, fraternal, labor and similar organizations. One (1) parking space for fifty (50) square feet of Gross Building Area in the auditorium, assembly hall and dining room of such building plus one (1) additional space for every two (2) persons regularly employed on the premises.
- (5) Dormitories, domiciliary homes, residential facilities for treatment of alcohol or other substance abuse, fraternity houses, and sorority houses. One parking space for every four (4) beds occupied at maximum capacity.
- (5a) Food stores, food/gas stores, convenience stores, and convenience/gas stores. Five and one-half (5.5) parking spaces per one thousand (1,000) square feet of Gross Building Area plus one space for every vehicle used in the conduct of the business. Each two fuel pumps shall count as one parking space. Minimum five (5) parking spaces.
- (6) Funeral homes. One parking space for each vehicle~~s~~ used directly in the conduct of the business plus one parking space for every two persons regularly employed on the premises plus one space for every three seats in the auditorium or chapel of such establishment and five (5) spaces for each parlor.
- (7) Hospitals. One parking space for each bed intended for patients, excluding bassinets, plus one per staff doctor, plus one per three employees, plus one per hospital vehicle.
- (8) Indoor retail businesses Five and one half (5.5) spaces per 1,000 square feet of Usable Area plus 1 space for every vehicle~~s~~ used directly in the conduct of such business.

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- (9) Industrial plants and facilities. One parking space for each vehicle used directly in the conduct of such industrial use plus one parking space for every two employees on the premises at maximum employment on a single shift.
- (10) Junior high schools. One parking space for every three seats available at maximum capacity in the assembly hall, auditorium, stadium, or gymnasium or greatest capacity on the school grounds or campus or one parking space for each person regularly employed at such school plus two additional spaces for each classroom whichever is greater.
- (10a) Senior high schools. One parking space for every three seats available at maximum capacity in the assembly hall, auditorium, stadium, or gymnasium or greatest capacity on the school grounds or campus; or one parking space for each person regularly employed at such school plus two additional spaces for each classroom; or one parking space for each person regularly employed at such school plus 25% of the average sophomore class plus 35% of the average junior class plus 50% of the average senior class, whichever is greater.
- (11) Learning center. Seven parking spaces per 1,000 square feet of gross floor area being used for a learning center.
- (12) Libraries, museums, post offices and similar establishments. 7.5 Parking spaces per 1,000 square feet of gross floor area of the building plus one parking space for each vehicle~~s~~ used directly in the operation of such establishment.
- (13) Medical and dental office and clinics. Seven parking spaces per 1,000 square feet of Usable Area of the building.
- (14) Nursing homes. One parking space for every four beds.
- (15) Offices Five parking spaces per 1,000 square feet of Usable Area of the building.
- (16) Outdoor retail businesses. Two parking spaces for each person employed on the premises based on maximum seasonal employment plus one parking space for each vehicle used directly in the conduct of such business.
- (17) Public and private elementary schools, and day care centers. One parking space for each person regularly employed on the premises plus one parking space for each classroom.
- (18) Public garages Three parking spaces for each person employed on the premises plus one parking space for each vehicle used directly in the conduct of such business.
- (19) Repair shops, plumbing shops, electrical shops, roofing shops, and other service establishments. Four parking spaces per 1,000 square feet of Gross Building Area, excluding parts or material storage areas, of the building plus one parking space for each vehicle used directly in the conduct of the business~~s~~.

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- (20) Restaurants, without a drive thru. Twenty (20) parking spaces per 1,000 square feet of seating area plus 2 parking spaces for every 3 employees on the maximum shift plus one parking space for every vehicle used in the conduct of the business.
- (20a) Restaurants, drive-thru/drive-in. 32 parking spaces per 1,000 square feet of seating area plus 2 parking spaces for every 3 employees on the maximum shift plus one parking space for every vehicle used in the conduct of the business plus a nine-foot wide by one hundred sixty-foot long queuing lane starting at the pickup station which shall not conflict with the required parking spaces or aisles.
- (21) Self-service laundries. One parking space for every two (2) washing machines, based upon the maximum capacity of the building.
- (22) Service station not including vehicle repair facilities. Three (3) parking spaces for each person employed on the maximum shift, plus one parking space for every vehicle used in the conduct of the business. Minimum of four (4) parking spaces.
- (22a) Service station including vehicle repair facilities. One parking space for each person employed on the maximum shift, plus one parking space for each vehicle used in the conduct of the business, plus five parking spaces for each service bay.
- (23) Theaters, auditoriums, churches, civic centers, stadiums and other places of public assembly. One parking space for every three seats available at maximum capacity in the largest room or hall in the building.
- (24) Motels and hotels. One parking space for each sleeping room, plus additional parking spaces to conform to the parking requirements for other uses of the premises, such as auditoriums, meeting rooms, and restaurants.
- (25) Transportation terminals. One parking space for every one hundred (100) square feet of waiting room space.
- (26) Universities, colleges, academies, and similar institutions of higher learning. One parking space for every four (4) seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the campus, or one parking space for each person regularly employed at such institution, plus twenty (20) additional spaces for each classroom, whichever is greater.
- (27) Warehouses, freight terminals and trucking terminals. Parking or storage space for all vehicles used directly in the conduct of such business plus two parking spaces for each person regularly employed on the premises, but in no case less than one parking space for each two hundred (200) square feet of gross office area.
- (28) Wholesale business. Parking or storage space for all vehicles used directly in the conduct of such business plus two (2) parking spaces for each person employed on the premises based on maximum seasonal employment, but in no case less

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than one parking space for each two hundred (200) square feet of gross office area.

- (29) Barber and beauty shops. Three parking spaces per chair.

(Ord. No. 5401, §1(q), 5-13-71; Ord. No. 6164, §1, 7-21-77; Ord. No. 6955, §1,10-21-82; Ord. No. 7461, §2, 2-6-86; Ord. No. 7768, §6, 6-2-88; Ord. No. 7938, §3, 1-18-90; Ord. No. 8608, §1, 3-20-97; Ord. No. 9042, §1, 6-7-01; Ord. No. 9051, §1, 6-21-01; Ord. No. 9921, §8, 5-20-10)

Sec. A-73. Parking for persons with disabilities.

- (a) Accessible parking spaces shall be designated as reserved by a sign showing the universal symbol of accessibility. Van accessible spaces shall be marked with an additional sign stating “Lift Van Accessible Only”.
- (b) Parking spaces designated for persons with disabilities shall be located on the shortest possible circulation route to an accessible entrance to the building. In separate parking structures or lots which do not serve a particular building, parking spaces for disabled persons shall be located on the shortest possible pedestrian route to an accessible pedestrian entrance of the parking facility.
- (c) Accessible parking spaces shall be included as parking spaces satisfying the requirements for off-street parking.
- (d) The required number of parking spaces for persons with disabilities shall be provided as follows:

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1,001 and more	20 plus 1 for each 100 over 1,000

- (e) One space in every four spaces shall be lift van accessible, but not less than one.

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- (f) Accessible parking spaces shall be not less than 8 feet wide by 19 feet long with a minimum 5 foot access aisle adjacent to each space. One in every 4 accessible spaces shall have an access aisle minimum 8 foot wide (lift van accessible). Universal parking spaces 11 foot wide with an adjacent 5 foot access aisle may be used to satisfy the requirement for accessible parking including lift van accessible parking spaces.

(Ord. No. 10024, §§1-3, 7-21-11)

Sec. A-74. Design and schedule of off-street loading and unloading space.

- (a) The following regulations shall govern the design of and the requirements for off-street loading and unloading space in all districts:

(1) Design:

- a. Loading space—Description. An off-street loading space shall be a hard surfaced area of land, open or enclosed, other than a street or public way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with the public use of streets and alleys. Loading spaces may overlap or conflict with required parking spaces when in the opinion of the Planning and Zoning Commission, the required loading space would not normally be used at the same time as the parking.
 - b. Location. No loading space shall be closer than fifty feet to any property in a residential district unless completely enclosed by building walls, or a uniformly painted solid noncombustible fence or wall, or any combination thereof not less than six feet in height. No permitted or required loading space shall be located within fifty feet of the nearest point of intersection of any two streets
 - c. Measurement of berth. When determination of the number of required off-street loading berths results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be interpreted as one loading space.
 - d. Surfacing. All open off-street loading space shall be improved with a compacted macadam base, not less than seven inches thick, surfaced with not less than two inches of asphaltic concrete or concrete not less than six inches thick.
- (2) Every building or structure used for business, trade or industry shall provide space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or street. Off-street loading and unloading space shall be designed not to obstruct nor interfere with the use of any street, alley or adjoining property. Off-street loading and unloading spaces may not be located on public right-of-way nor within a front yard. The minimum size and number of off-street loading and unloading spaces shall depend upon the size of the building to which they are appurtenant, as follows:

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Gross Floor Area of Building (square feet)	Size of Loading Space	Minimum Number of Spaces Required
0 to 4,000	None Required	None Required
4,000 to 8,000	10' x 25'	1
8,000 to 24,000	12' x 40'	1
24,000 to 60,000	12' x 40'	2
Each additional 50,000	10' x 40'	1

Secs. A-75.—A-80. Reserved.

(Ord. No. 6147, §2, 7-7-77; Ord. No. 6772, §1,7-16-81; Ord. No. 8855, §1, 10-7-99)

ARTICLE XII. COMMUNITY UNIT PLANS

Sec. A-81. General provisions.

(a) The owner or owners of any tract of land which meets the requirements for any of the community plans set forth in this article may as an alternative to the use and development of their property pursuant to the regulations set forth in this Ordinance for the district in which the said property lies, file with the city council an application for the use of one of the community unit plans. The application shall include:

The preliminary development plan to include the following:

- (a) Plot plan showing the size, dimensions and location of the property.
 - (b) The proposed building lines.
 - (c) The proposed location and approximate size of the building or buildings.
 - (d) The approximate existing and proposed contours.
- (1) A filing fee for community unit plans shall accompany the application and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.” Upon the filing of the application for the preliminary development plan with the city council, the council shall refer the same to the planning and zoning commission for review, study and public hearing. The planning and zoning commission shall review the application and shall conduct a public hearing concerning the same after having given notice of the time, place and purpose of such public hearing by at least one notice in a newspaper of general circulation within the City of Kirkwood at least 15 days prior to the date of the public hearing, and by sending a copy of said notice by first class mail to all property owners shown by the city tax records within 300 feet of the boundaries of the area. After the public hearing the planning and zoning commission shall report to the city council with its recommendations as to the application and the preliminary development plan. The council may then either approve, disapprove or modify and then approve the application

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and the preliminary development plan, or it may return the same to the planning and zoning commission for further study and report.

- (2) Within twelve (12) months from the date of the approval by the city council of the application and the preliminary development plan, a final development plan shall be filed with the planning and zoning commission. and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.” Such final development plan, in addition to matters shown on the preliminary development plan, shall include the following:
 - (a) The existing and proposed contour intervals.
 - (b) All proposed uses and structures (present and future).
 - (c) Sidewalks.
 - (d) Ingress and egress facilities.
 - (e) Plan for the provision of water, sanitary sewage and storm drainage facilities.
 - (f) All easements and dedications.
 - (g) All other information which the planning and zoning commission may designate.
 - (h) Applications for building permits are subject to site plan review as outlined in Article IV.

No building permit shall be issued to construct any part or all of the development in the district until such time as the planning and zoning commission and the city council have approved the final development plan and unless the construction plans meet all requirements of the city and the city's building code. However, nothing contained herein shall be construed to prohibit such grading and site work as shall be needed to prepare the tract for development, provided approval of the planning and zoning commission is received in writing and final approval by the city council for such grading and site work and a grading permit is secured.

- (3) No improvements, buildings, facilities, commercial establishments or service concerns of any character may be constructed upon, or may occupy or use, any portion of the district until a performance bond, or a performance undertaking, or a performance escrow sufficient to insure to the city either the completion of all public improvements or alternatively to pay the estimated expenses of restoring the ground to its preexisting condition if said improvements are undertaken but not completed, in an amount as determined by the planning and zoning commission and approved by the city attorney and the mayor and city council, is posted and filed with the city engineer.

Within twenty-four (24) months of the date of approval of the final development plan by the planning and zoning commission, construction shall commence, or the permit shall be void.

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Any transfer of ownership or lease of the property shall include in the transfer or lease agreement a provision that the purchaser or lessee agrees to be bound by the conditions herein set forth and the approved development plan for the property.

There shall be adequate legal provisions to ensure that the development plan approved will be actually constructed and completed and that any common areas will be properly protected and maintained, and in order to effectuate this paragraph, it may be required as a condition of approval by the development plan that deed restrictions or a trust indenture be executed and recorded.

(Ord. No. 9611, §1-2, 8-3-06)

Sec. A-82. Community Unit Plan-Type A.

[This plan] Is available to the owner or owners of any tract of land in any district zoned for residential purposes. As a minimum, the following shall be required for a Community Unit Plan-Type A:

- (1) That under the said development plan, the adjacent property shall be properly safeguarded.
- (2) That said plan is consistent with the intent and purpose of this ordinance to promote the public health, safety, morals and general welfare.
- (3) That the improvements to be located on the tract of land shall be used only for residential purposes and the usual accessory uses such as garages, storage space and community activities.
- (4) That the average land area per dwelling unit contained in the net site area shall not be less than the land area per dwelling unit required by the area regulations of the existing or petitioned for district in which such tract of land is situated.
- (5) That as a condition of approval, an area of at least 10% of the net site area, or one-half acre, whichever is larger, may be required to be set aside and permanently maintained as a playground, recreational area for use of residents of the tract of land.
- (6) Adequate legal provisions to insure that the development plan approved will be actually constructed and completed, and that any common areas will be properly protected and maintained, and in order to effectuate this paragraph it may be required as a condition of approval of the development plan that deed restrictions or a trust indenture be executed and recorded.
- (7) Community buildings may be permitted which may be used for recreation, meeting, or community dining space when not operated for profit.
- (8) A filing fee shall accompany the application and a fee shall be paid in accordance with Chapter 5, Article VI "Fee Schedule."

(Ord. No. 5532, §1(b), 8-10-72; Ord. No. 9611, §1, 8-3-06)

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Editor's note--Former §3, "Community unit plan-type B," was deleted and reserved for future use by §1 of Ord. No. 7767, adopted June 2, 1988. Such deleted provisions derived from the original zoning ordinances of the city, Ord. No. 5085, adopted Feb. 24, 1967.

Sec. A-83. Community Unit Plan-Type C.

The owner or owners of any tract of land zoned or petitioned for Residential R-6, pursuant to this Ordinance, may file an application for the use and development of all of the tract of land under Community Unit Plan-Type C, which shall be governed by the regulations hereinafter set forth in this section.

- (a) *Permitted uses:* A building or premises shall be used only for multiple-family residential structures designed solely for the elderly and/or handicapped and related accessory structures.
- (b) *Lot requirements.* There may be more than one main building upon a tract of land, and the yard requirements set forth in subparagraph (c) hereof shall apply to the tract of land as a whole and not to any particular building thereon, the only requirement being that no building shall encroach upon the required front, side or rear yard of the tract as a whole. For the purposes of this section only, the front shall be the side having the greatest frontage upon a street or upon an officially approved place.
- (c) *Yard requirements.* No building or structure except for that portion built entirely below grade with no exposed wall, shall be erected unless the following yards are provided and maintained in connection therewith.
 - (1) Front yard.
 - a. There shall be provided a front yard having a depth of not less than 40 feet.
 - b. On a through lot, the required front yard shall be provided on both streets.
 - c. On a corner lot, the required front yard shall be provided on both streets.
 - (2) Side yard. There shall be provided a side yard on each side of the building having a width of not less than 25 feet.
 - (3) Rear yard. There shall be provided a rear yard having a depth of not less than 30 feet.
- (d) *Intensity of use and floor area ratio.*
 - (1) Every tract of land shall have a width at the building line of not less than 120 feet.
 - (2) When a building is erected on a lot, such lot shall have an area of not less than 800 square feet per family; for each successive story above four stories, the lot area requirement for such story shall be reduced 100 square feet per family, so

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that the requirement for the fifth story is 700 square feet per family, for the sixth story, 600 square feet per family, et cetera, up to and including the tenth, eleventh and twelfth stories for which the lot area requirement shall be 200 square feet per family. There shall be a maximum floor area ratio of one and one-half (1.5), except that where the building is set back from one or more of the required yard lines, the floor area of such building may be increased by one square foot for each one square foot of area left open within the portion of the lot bounded by the required front side and rear yards specified in section (paragraph) (c) above, provided that in no event shall a building exceed twelve stories or 125 feet in height, above grade.

- (e) *Parking regulations.* One parking space shall be provided for each dwelling unit.
- (f) *Conditions of Approval*
 - (1) The development plan shall provide for the development of the entire tract as a unit and provide for an overall integrated design.
 - (2) The location and arrangement of building or buildings, parking areas, walks, lighting and facilities shall be adjusted so as to not be detrimental to surrounding land uses, and any part of the site not used for buildings or other structures or for parking, loading, recreation or access ways shall be landscaped with grass, trees and shrubs.
 - (3) No signs or displays or advertising of merchandise for sale or services offered in the service shops shall be visible from outside of the building or in the open area.
 - (4) Adequate legal provisions to insure that the development plan approved will be actually constructed and completed, and that any common areas will be properly protected and maintained, and in order to effectuate this paragraph, it may be required as a condition of approval of the development plan that deed restrictions or a trust indenture be executed and recorded.
- (g) A filing fee shall accompany the application and a fee shall be paid in accordance with Chapter 5, Article VI “Fee Schedule.”

(Ord. No. 5532, §1(c), 8-10-72; Ord. No. 9590 §1, 4-6-06; Ord. No. 9611, §1, 8-3-06)

Secs. A-84.—A-90. Reserved.

(Ord. No. 5401, §1(r), 5-13-71; Ord. No. 5532, §1(a), 8-10-72; Ord. No. 6116, §1, 4-14-77; Ord. No. 7693, §13, 10-1-87; Ord. No. 7767, §2, 6-2-88; Ord. No. 7883, §5, 5-4-89; Ord. No. 8477, §§1-3, 12-21-95; Ord. No. 8555, 10-17-96)

**ARTICLE XIII. NONCONFORMING USES
AND BUILDINGS**

Sec. A-91.

The following regulations shall govern the use, discontinuance, abandonment, alteration, reconstruction, and creation of nonconforming uses and buildings.

- (a) The lawful use of a building existing at the time of the effective date of this Ordinance may be continued, although such use does not conform to the provisions hereof. If no structural alternations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- (b) Whenever the use of a building becomes nonconforming through a change in the zoning ordinance or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another nonconforming use of the same or of a more restricted classification.
- (c) Whenever a nonconforming use of a building, structure, or premises, or part thereof, has been discontinued or abandoned for a period of 180 days, such use shall not be reestablished; and the use of the building, structure, or premises shall thereafter be in conformity with the regulations of the district. Any nonconforming use that has been abandoned shall not thereafter be re-established. The term “abandoned” shall mean the voluntary discontinuance of a nonconforming use.
- (d) Where no enclosed building or structure is involved, discontinuance of a nonconforming use for a period of 30 days shall constitute abandonment. Any nonconforming use that has been abandoned shall not thereafter be re-established. The term “abandoned” shall mean the voluntary discontinuance of a use.
- (e) No existing building or premises devoted to a use not permitted by this ordinance in the district in which such building or premises is located, except when required to do so by law or order, shall be expanded, enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located or unless a special use permit is obtained pursuant to the provisions provided below.
- (f) When any building or structure devoted to a nonconforming use which is permitted to continue by the provisions of this Ordinance is damaged or destroyed by fire, explosion, floods, wind, or other acts of God, or by the public enemy, or by any other cause unrelated or unattributable to the owner, it may be restored and such use may continue, provided such restoration is in accordance with the building and fire codes and further provided that such restoration is completed within eighteen (18) months after the date such damage was sustained, or within such additional time thereafter as may be granted upon application to the board of adjustment.
- (g) A legal nonconforming use or a building arranged or designed for or devoted to a legally nonconforming use may not be expanded or extended or enlarged or altered unless the

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use is changed to a conforming use or unless a special use permit is obtained pursuant to the procedures set forth in Article IX, and shall be subject to the following minimum requirements:

- (1) No change in use is allowed which would make the property less conforming;
- (2) The expansion, extension, enlargement or alteration of the use or structure will have a less deleterious effect on the neighboring properties than does the existing use or structure;
- (3) The expansion, extension, enlargement or alteration of the use or structure may not create any additional burden on the neighboring properties;
- (4) The expansion, extension, enlargement or alteration of the use or structure may not substantially increase traffic hazards or congestion;
- (5) The expansion, extension, enlargement or alteration of the use or structure may not substantially increase fire hazards;
- (6) The expansion, extension, enlargement or alteration of the use or structure may not adversely affect the general welfare of the community;
- (7) The expansion, extension, enlargement or alteration of the use or structure may not overtax public utilities;
- (8) The expansion, extension, enlargement or alteration of the use or structure must satisfy all other site development regulations which are applicable;
- (9) The property must comply with the applicable bufferyard and landscape requirements, if any, contained in this ordinance;
- (10) In order to assure compliance with any provisions required for approval of this provision and to assure maintenance of buffers and landscaping, which mitigates the effect of the nonconforming use, adequate provisions may be made in covenants running with the land or other instruments which empower the city to enforce the covenants in the event of failure of compliance and entitling the city to place a lien upon the property in the event the city is required to perform any maintenance work in order to enforce the provisions of a special use permit granted herein. Any approval of expansion, extension, enlargement or alteration of the use or structure provided for herein does not alter the nonconformancy of the use or any remaining nonconforming characteristics set forth above. Further, any approval of an expansion, extension, enlargement or alteration of the use or structure does not obligate the city to grant further approvals, and any additional expansion, extension, enlargement or alteration of the use or structure shall require a new application, which application may, in the discretion of the city, be considered from the perspective of the aggregate impact of any proposed expansion, extension, enlargement, or alteration and any previous expansion, extension, enlargement, or alteration previously permitted under the provisions of this ordinance.

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- (h) The burden of establishing the legality of a nonconformity is the direct responsibility of the user or owner of the property upon which the nonconformity uses, not the City.
- (i) Any nonconforming, single-family residential structure may be repaired, maintained, altered, or expanded. However, no such repair, maintenance, alteration, or expansion shall create any new non-compliance.

(Ord. No. 8814, §2, 5-6-99; Ord. No. 9803; §2, 10-16-08)

Secs. A-92.—A-100. Reserved.

(Ord. No. 7689, §§1, 2, 9-3-87; Ord. No. 7952, §1, 3-1-90)

ARTICLE XIV. ADMINISTRATION AND ENFORCEMENT

Sec. A-101. Building permit.

(a) No building or structure shall be erected, added to or structurally altered until a permit therefor has been issued by the building commissioner. No such building permit shall be issued in violation of the provisions of this Ordinance.

(b) There shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this Ordinance.

Sec. A-102. Certificate of occupancy.

(a) Prior to the initial occupancy of any building or structure and prior to any change in occupancy or use, after all requirements of the city ordinances have been met, a certificate of occupancy shall be issued by the building commissioner, stating that the proposed use thereof complies with the requirements of the ordinances of the City of Kirkwood.

(b) No nonconforming use shall be maintained, renewed or changed without a certificate of occupancy having first been issued by the building commissioner.

(c) No permit for excavation for, or the erection or alteration of or repairs to any building shall be issued until an application has been made for a certificate of occupancy.

(Ord. No. 6142, §2, 6-2-77)

ARTICLE XV. INTERPRETATION OF ORDINANCE

Sec. A-103. Interpretation of ordinance.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety and the general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other

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lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards shall govern.

Secs. A-104.—A-110. Reserved.

ARTICLE XVI. BOARD OF ADJUSTMENT

Sec. A-111. Creation, appointment and organization.

(a) The word "Board" when used in this Article shall be construed to mean the Board of Adjustment. The Board of Adjustment shall consist of five (5) members, who shall be residents of Kirkwood and shall be appointed by the Mayor and approved by the City Council. The term of office of the members of the Board shall be for five (5) years. Three (3) alternate members may be appointed to serve in the absence of or the disqualification of the regular members. All members and alternates shall be removable for cause by the City Council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member who fails to complete their term of office.

(b) The Board shall elect its own chairman, vice-chairman and secretary, who shall serve for one year. The Board shall adopt from time to time such rules and regulations as it may deem necessary for the conduct of its proceedings and to carry into effect the provisions of this Ordinance.

(c) The chief administrative officer shall provide the Board with such facilities and other matters as it shall need for its operation, including secretarial services.

Sec. A-112. Meetings.

Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in the absence of the chairman, the vice chairman or other acting chairman, 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 each 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 Board 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 Kirkwood Code of Ordinances, including Appendix A - Zoning ("Zoning Ordinance"), and the comprehensive plan, and the Zoning district map, which are or may hereafter be in force, shall automatically be part of the evidence at each hearing before the Board to the extent applicable, without being specifically introduced at a hearing.

Sec. A-113. Powers, duties and procedure.

- (a) The Board of Adjustment shall have the following powers:
- (1) To hear and decide appeals in which it is alleged there is an error in any order, requirement, decision, or determination made by the Building Commissioner or an administrative official in the enforcement of the Zoning Enabling Act, Mo. Rev. Stat. § § 89.010-.140 (1992), as amended, or the Zoning Ordinance.
 - (2) To hear and decide all matters referred to it or upon which it is required to pass under the Zoning Ordinance.

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- (3) To grant area or non-use variances, which vary or modify the application of any of the regulations or provisions of the Zoning Ordinance, where there are practical difficulties or unnecessary hardships in the carrying out of the strict letter of the Zoning Ordinance so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 - (i) An area or non-use variance authorizes a deviation or departure from the literal requirements of the Zoning Ordinance regulations which relate to permitted uses within a given zoning district. Examples of area or non-use variances include deviations from the bulk area, height, density, setbacks and sideline restrictions in a zoning district.
 - (ii) In passing upon appeals, the Board of Adjustment is authorized to grant an area or non-use variance only upon a finding that:
 - 1. There are practical difficulties or unnecessary hardship in the way of carrying out the strict application of the Zoning Ordinance;
 - 2. Granting the variance requested would observe the spirit of the Ordinance, secure public safety and welfare and do substantial justice; and
 - 3. The deviation from strict application of the Zoning Ordinance that would be authorized by the area or non-use variance would not constitute a change in the district map, impair an adequate supply of light and air to adjacent property, increase congestion in public streets, increase congestion in public streets, increase the danger of fire, materially diminish or impair established property values within the surrounding area, and would not in any other respect impair the public health, safety, comfort, morals and welfare of the City of Kirkwood.
 - (iii) If an appeal for an area or non-use variance is granted, the Board shall grant the minimum variance necessary to allow the applicant reasonable use of his or her land.
- (4) To grant use variances
 - (i) Use variances permit a use of property other than one enumerated as a permitted use in the Zoning Ordinance for the particular zoning district in which that property is located.
 - (ii) The Board of Adjustment is authorized to grant use variances upon application or appeal in accordance with the Enabling Act, the Zoning Ordinance, and the procedures set forth herein only upon finding that:
 - 1. The applicant will be deprived of all beneficial use of the property under any of the permitted uses in that zoning district. All beneficial use is lost only where the property is not suitable for any use permitted in the Zoning Ordinance for that zoning district;

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2. The applicant has sufficiently demonstrated unnecessary hardship through actual proof and not mere conclusory or lay opinion that the property in question cannot yield a reasonable return if used only for a purpose or purposes permitted in the zoning district in which that property is located;
 3. The plight of the owner is due to exceptional or unique circumstances and not due to general conditions in the neighborhood which may reflect the unreasonableness of the Zoning Ordinance itself;
 4. The use to be authorized by the use variance would not alter the essential character of the locality; and
 5. The proposed use to be authorized by the use variance would not constitute a change in the district map, impair an adequate supply of light and air to adjacent property, increase congestion in public streets, increase the danger of fire, materially diminish or impair established property values within the surrounding area, and would not in any other respect impair the public health, safety, comfort, morals and welfare of the City.
- (5) To grant variances from parking and loading and unloading regulations of the Zoning Ordinance, in the manner prescribed above, where the character or use of the building or premises make unnecessary the full provision of parking or loading or unloading facilities or when such regulations would impose an unreasonable hardship upon the use of the lot or tract of land, as contrasted with merely granting an advantage or convenience.
 - (6) To permit the extension of a district where the boundary line of a district divides a lot of record in single ownership.
 - (7) To grant an extension of time for the reconstruction of a nonconforming building which has been damaged by fire, explosion, floods, wind or other acts of God, or the public enemy, or by any other cause unrelated or unattributable to the owner as authorized under Article XIII of the Zoning Ordinance.
 - (8) To interpret the provision of the Zoning Ordinance where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map shall be on file in the office of city clerk and available for review and inspection.

(b) In exercising the above mentioned powers, the Board may, in conformity with the provisions of Sections 89.010 to 89.140 R.S.Mo., reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse or modify any order, requirement, decision or determination of the Building Commissioner, or to decide in favor of the applicant on any matter upon which it is required to pass upon the Zoning Ordinance or to effect any variation in such Ordinance.

Sec. A-114. Procedure for Appeals to the Board of Adjustment.

(a) Appeals to the Board, on any matter over which the Board is hereby specifically granted jurisdiction, may be taken by any person aggrieved or by any officer, department, board or bureau of Kirkwood affected by any order, requirement, decision or determination of the Building Commissioner. The aggrieved party must file an application to appeal within 30 days of the order, requirement, decision or determination appealed from. The application to appeal must be filed with the Building Commissioner and with the Board specifying the grounds for appeal. Upon receipt of an application to appeal, the Building Commissioner shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(b) An appeal to the Board stays all proceedings in furtherance of the order, requirement, decision or determination of the Building Commissioner appealed from, unless the Building Commissioner certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his 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 Building Commissioner from whom the appeal is taken and on good cause shown.

(c) The Board shall hear and decide appeals within a reasonable time period.

(d) At the time that an appeal or application to the Board is filed, and a fee shall be paid in accordance with Chapter 5, Article VI "Fee Schedule."

(e) The Board shall give at least fifteen (15) days notice of the time and place of its hearing on each appeal in a newspaper of general circulation in the City. The Board shall also give due notice to interested parties, including the appellant and persons owning property located within three hundred (300) feet of the property which is the subject of the appeal. Any interested party may appear at the Board's hearing on an appeal in person or by agent or by attorney.

(f) The order, requirement, decision or determination of the Board may be made a part of any building permit ordered to be issued by a decision of the Board.

(g) Applications for building permits, authorized by a decision of the Board, must be made within one (1) year after the decision of the Board. If no application for a building permit is made within the one year period, the variance is automatically rescinded. Any variance granted by the Board, which does not require an application for a building permit, is automatically rescinded after one year from the date of the Board's decision if no use of the variance is made within the one year period. The Building Commissioner shall notify the Board of all variances which are rescinded.

(Ord. 9611, §1, 8-3-06)

Sec. A-115. Procedure for Appeals from the Board of Adjustment.

(a) Any person or persons jointly or severally aggrieved by any decision of the Board, or any officer, department, board or bureau of the City, may present to the circuit court having jurisdiction in St. Louis County, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such petition must be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

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(b) Upon the presentation of such petition, the court may allow a writ of certiorari directed to the Board to review the data and the records acted upon. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(c) Costs shall not be allowed against the Board, unless it shall appear to the court that it acted with gross negligence or in bad faith, or with malice in making the decision appealed from.

Sec. A-116. Additional duties.

The City Council may from time to time expand the powers and duties of the Board and its jurisdiction.

Secs. A-117.—A-120. Reserved.

(Ord. 8194, §1, 4-1-93, Ord. 8258, §3, 10-21-93)

ARTICLE XVI-A. AMENDMENTS*

Sec. A-121. Amendments.

The city council may, from time to time, on its own motion, or on petition of the planning commission, or any person having an interest in the property involved, amend, supplement, change, modify or repeal by ordinance, the boundaries of district or the regulations or restrictions herein established. Any proposed amendment, supplement, change, modification or repeal shall first be submitted to the city planning and zoning commission for its recommendations and report. If the city planning and zoning commission makes no report within ninety days, it shall be considered to have made a report approving the proposed amendment, supplement, modification or change.

In case of an adverse report by the city planning and zoning commission or in case a protest against any proposed amendment, supplement, change, modification or repeal which shall be presented in writing to the city clerk and duly signed and acknowledged by the owners of thirty percent or more, either of the area of the land (exclusive of streets, places and alleys) included within such proposed amendment, supplement, change, modification or repeal, or within an area determined by lines drawn parallel to and one hundred eighty-five feet distant from the boundaries of the district proposed to be amended, supplemented, changed or modified then such amendment, supplement, change, modification or repeal shall not become effective except by the favorable vote of two-thirds of all of the members of the city council. The provisions set forth below relative to a public hearing and official notice shall apply equally to all changes or amendments.

The party or parties proposing or recommending a change in the district regulations or district boundaries shall pay a fee in accordance with Chapter 5, Article VI “Fee Schedule.”

(Ord. No. 5401, §1(t), 5-13-71; Ord. No. 6110, §1, 4-14-77; Ord. No. 7883, §6,5-4-89; Ord. No. 8413, §1, 4-6-95; Ord. No. 9611, §1, 8-3-06)

***Editor's note**—Ord. No. 5351, §1, adopted Aug. 20, 1970 amended the zoning ordinance by changing the numbering of Art. XVI, Amendments, to Art. XVI-A.

Sec. A-122. Hearing.

Upon receipt of the report and recommendation of the city planning and zoning commission the council shall hold a public hearing regarding such proposed amendment and shall cause notice of the time and place of such public hearing to be published at least one time in a paper of general circulation in the City of Kirkwood. The publication of such notice shall be at least fifteen (15) days prior to the day of hearing. The council shall also give notice by first class mail to all property owners as shown by the tax records of the city within three hundred (300) feet of the boundaries of the tract of land for which the application is filed. (The council may waive the requirement that notice be mailed in the event of comprehensive zoning amendments.) (Ord. No. 6020, §2,9-2-76)

Secs. A-123.—A-130. Reserved.

ARTICLE XVII. VIOLATIONS AND PENALTIES

Sec. A-131. Violations and penalties.

(a) It shall be the duty of the building commissioner to enforce this Ordinance. Appeal from the decision of the building commissioner may be made to the board of adjustment as provided in Article XV.

(b) Any person as owner or agent of a building or premises in or upon which a violation of any provision of this Ordinance has been committed or shall exist, or any person as the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist, or any person as an agent, architect or building contractor, or any other person who commits, takes part in or assists in any violation of any of the provisions of this Ordinance or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than one hundred dollars for each and every day that such violation continues; provided, however, that if the violation of this Ordinance be willful, on conviction thereof, the punishment shall be a fine of not less than one hundred dollars nor more than two hundred fifty dollars for each and every day that such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment, in the discretion of the court.

(c) Any person who has been served with an order to remove or cease any violation of any provision of this Ordinance and who fails to comply with said order within ten days after receipt of such notice shall also be subject to a civil penalty of two hundred fifty dollars.

(d) Each of the remedies, fines and imprisonments set forth in this Article XVII of this Ordinance shall be cumulative and not exclusive remedies.

Secs. A-132.—A-140. Reserved.

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ARTICLE XVIII. VALIDITY

Sec. A-141. Validity.

If any article, section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional, or unlawful for any reason by any court of competent jurisdiction, such portion shall be deemed and is here declared to be a separate, distinct and independent provision of this Ordinance and such holding or holdings shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE XIX. CONFLICTING ORDINANCES REPEALED

Sec. A-142. Conflicting ordinances repealed.

Ordinance No. 4517 passed and approved July 2, 1959 and all amendments thereto and any ordinances or parts of ordinances in conflict herewith are hereby repealed.

ARTICLE XX.

Sec. A-143. When effective.

This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED AND APPROVED this 24th day of February, 1967.

(Ord. No. 8561, §§1-7, 11-7-96)