

## ARTICLE IV

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### Section 1

#### OFF-STREET PARKING REQUIREMENTS

##### A. Standards

In all districts except the Central Business District, there shall be provided at such time any building or structure is erected, enlarged, or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

(1) Dwelling — One and one-half (1 1/2) parking spaces for each separate dwelling unit within the structure.

(2) Boarding or Rooming House or Hotel or Motel - One (1) parking space for each two (2) guests provided overnight accommodations.

(3) Medical or Dental Clinics or Offices and Hospitals — Seven (7) spaces per doctor plus two (2) spaces for each three (3) employees in clinics and offices. For hospitals there shall be one (1) space per bed and one (1) space per employee.

(4) Sanitoriums, Convalescent, or Nursing Homes — One (1) space for each six (6) patient beds plus one (1) space for each staff or visiting doctor plus one (1) space for each four (4) employees including nurses.

(5) Community Center, Theater, Auditorium - One (1) parking space for each three (3) seats based on maximum seating capacity.

(6) Convention Hall, Lodge, Club, Library, Museum, Place of Z or Recreation — One (1) parking space for each fifty (50) square feet of floor area used for assembly or recreation in the building.

(7) Office Building — One (1) parking space for each two hundred (200) square feet of gross floor area in the building, exclusive of the area used for storage, utilities, and building service area.

(8) Commercial Establishments Not Otherwise Classified — One (1) parking space for each one hundred fifty (150) square feet of floor space in the building used for retail trade, .or used by the public, whichever is greater.

(9) Industrial Establishments - Adequate area to park all employees' and customers' vehicles at all times and adequate space for loading, unloading, and storing all vehicles used incidental to or as a part of the primary operation of the establishment.

(10) Church Sanctuary - One (1) parking space for each three (3) seats based on maximum seating capacity; provided, however, that churches may establish joint parking facilities for not to exceed fifty percent (50%) of the required spaces, with public institutions and agencies that do not have a time conflict in parking demand. The joint parking facility shall be located not to exceed four hundred (400) feet from the church sanctuary.

(11) All Others - For all other uses not covered in (1) through (10) above, the Planning Commission shall make a determination of the parking demand to be created by the proposed use, and the amount of parking thus determined shall be the off—street parking requirement for the permitted use.

#### B. Application of Standards

In applying the standards set forth above, the following shall apply:

(1) In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except in the case of church sanctuary as specified in paragraph (10) above.

(2) Where a fractional space results, any fraction more than one-half (1/2) shall be counted as one (1) parking space.

(3) These standards shall apply fully to all uses and buildings established after the effective date of this Ordinance.

(4) Except for parcels of land devoted to one (1), two (2), or three (3) family uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.

(5) Where parking is to be provided in the front yard of a multiple-family dwelling, there shall be established a setback line of fifteen (15) feet. The area between the setback line and the front lot line shall be prepared and planted with grass, shrubs, trees, or ground cover.

(6) All parking spaces required herein shall be located on the same lot with the building or use served, with the exception of churches, as noted in paragraph (10) above.

(7) No signs of any kind shall be erected except information signs used to guide traffic and to state the conditions and terms of the use of the lot. Only non-intermittent white lighting of signs shall be permitted.

## Section 2

### OFF-STREET LOADING AND UNLOADING REQUIREMENTS

The following rules and regulations shall apply to off-street loading and unloading facilities:

A. A building whose principal use is handling and selling goods at retail shall provide one (1) off-street loading and unloading space for buildings up to and including ten thousand (10,000) square feet of floor area, plus one (1) additional space for each additional ten thousand (10,000) square feet of gross floor area.

B. Manufacturing, repair, wholesale, and similar uses shall provide one (1) off-street loading and unloading space for buildings containing ten thousand (10,000) square feet of floor space, plus one (1) space for each forty thousand (40,000) square feet of floor area in excess of ten thousand (10,000) square feet of gross floor area.

C. Where trailer trucks are involved, such loading and unloading space shall be an area twelve (12) by fifty (50) feet with a fourteen (14) foot height clearance and shall be designed with appropriate means of truck access to a street or alley, as well as having adequate maneuvering area.

## Section 3

### OTHER REQUIREMENTS

#### A. Paved Surface Required

All parking spaces required under the provisions of this Article shall be paved with a sealed surface pavement and maintained in a manner that no dust will result from continued use.

#### B. Driveways

Driveways used for ingress and egress shall not exceed twenty-five (25) feet in width, exclusive of curb returns.

#### C. Buffer

All interior sides of a parking lot abutting a residential use zoning district shall be enclosed with an opaque, ornamental fence, wall, or dense evergreen hedge having a height of not less than five (5) feet nor more than seven (7) feet. Such fence, wall, or hedge shall be maintained in good condition.

#### D. Size

The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine (9) feet by twenty (20) feet plus adequate area for ingress and egress.

## ARTICLE V

### SIGNS, BILLBOARDS, AND OTHER ADVERTISING STRUCTURES

#### Section 1

##### GENERAL

The regulations established herein are designed to regulate sign structures in order to insure light, air, and open space; to reduce hazards at intersections; to prevent accumulation of trash; and to protect property values of the entire community. The regulations for signs, billboards, and other advertising structures are indicated below. See Article X for definitions of terms.

#### Section 2

##### ALL DISTRICTS

In any zoning district, the following general regulations shall apply:

- (1) No sign shall be erected or maintained at any location where, by reason of its position, wording, size, shape, or color may obstruct, impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal, or device.
- (2) No sign shall contain or make use of any word, phrase, symbol, shape, form or character in such a manner as to interfere with, mislead, or confuse traffic.
- (3) No illuminated sign shall be permitted within twenty-five (25) feet of property in any residential use district unless the illumination of such sign is so designed that it does not shine or reflect light onto such property.
- (4) No business or advertising sign shall be erected to exceed fifty (50) feet in length, nor shall any sign be erected to exceed the building height requirement V in the particular use district in which it is located.
- (5) All outdoor advertising structures, including billboards, shall be erected in conformity with the side and rear yard requirements of the district in which it is located, and shall be set back from the established street right-of-way line as to not block the view of an adjacent building, and in no case shall it be located closer than 10 feet from the street property line.
- (6) Temporary signs shall not be erected or otherwise fixed to any pole, tree, stone, fence, building, structure, or any object within the right-of-way of any street.

No temporary sign shall be erected at the intersection of any street in such a manner as to obstruct vision, or be confused with any authorized traffic sign, signal, or device. No temporary sign shall exceed thirty (30) square feet in area.

(7) A temporary sign shall not be suspended across public streets or other public places without the express permission of the City Council.

(8) Professional signs for home occupations shall not exceed four (4) square feet, provided such sign is either a wall or ground sign located not closer than twenty (20) feet to a street right-of-way line.

(9) Bulletin board or sign, not exceeding forty (40) square feet in area appertaining to the lease, hire or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, or sold.

### Section 3

#### ADDITIONAL REGULATIONS IN RESIDENTIAL DISTRICTS

In residential use districts, the following additional regulations shall apply:

(1) For any single-family, two-family dwellings, or boarding house, nameplates, not to exceed two (2) square feet in area, shall be permitted for each dwelling unit; such nameplate shall indicate nothing other than name and/or address of occupants, premises, announcement of boarders or roomers.

(2) Signs for home occupations are regulated by paragraph (8) in Section 2 of this Article.

(3) For multiple-family and group dwellings, identification signs, not to exceed twelve (12) square feet in area, shall be permitted; such sign shall indicate nothing other than name and/or address of premises and name of the management.

(4) Announcement of church, school, or public building- bulletin boards not to exceed thirty (30) square feet in area shall be permitted; such bulletin board shall not be located in a manner so as to obscure or impair vision of persons operating vehicles entering or leaving the premises. Such bulletin board may contain indirect illumination.

(5) Only one sign per street frontage shall be permitted.

(6) Identification signs containing only the name of the public use or institution shall be permitted; but shall not exceed one hundred (100) square feet of area.

(7) Flashing or intermittent illumination is prohibited.

(8) Billboards and other advertising structures are prohibited.

#### Section 4

#### ADDITIONAL REGULATIONS IN COMMERCIAL DISTRICTS

In the Commercial Use Districts, the following additional regulations shall apply:

(1) In the NC Neighborhood and Quiet Business District, flashing or intermittent illumination signs are prohibited; billboards and other advertising structures are prohibited. For principal uses, business signs shall be permitted on the basis of one (1) sign not exceeding one (1) square foot of surface area for each one (1) linear foot of building facade fronting a public street. Such sign shall be mounted on the main building.

(2) In the CBD Commercial District, free-standing bill boards are prohibited; additionally, advertising signs (as contrasted from identification signs) painted on the sides of buildings that advertise products or goods unrelated to the use of the building on which the sign is painted or attached shall be prohibited.

## ARTICLE VI

### SPECIAL PERMIT USES

#### Section 1

##### NATURE AND DESCRIPTION

Certain uses may or may not be appropriately located within various districts throughout the City due to their unusual or unique characteristics of operation and external effects. Given their unusual character, special consideration must be given each application so as to provide for such reasonable conditions and protective restrictions as are deemed necessary to protect the character and integrity of the area in which uses are proposed to be located. The uses listed under the various districts herein as “special permit uses” are. So classified because they more intensely dominate the area in which they are located than do other uses permitted in the district; however, the nature of such uses makes it desirable that they be permitted to locate therein.

#### Section 2

##### USES

###### A. Uses Restricted to Specific Districts

Uses which are listed in various districts as “special permit uses” may be located only in the district or districts so designated and in accordance with the procedure described herein in Section 3.

###### B. Uses Permitted in Any District

The following special uses may be authorized in any district in accordance with the procedure described herein in Section 3:

- (1) Cemetery or mausoleum
- (2) Greenhouse or nursery
- (3) Landing field or strip for aircraft
- (4) Radio tower or broadcasting station
- (5) Removal of gravel, topsoil or similar natural material
- (6) Public utility structure



### Section 3

#### PROCEDURE FOR AUTHORIZING

The following procedure is established to integrate properly the special permit uses with other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:

(1) An application shall be filed with the City Planning Commission for review. Said application shall show the location and intended use of the site and existing land uses within 200 feet and any other material or information pertinent to the request which the Planning Commission may require.

(2) The City Planning Commission shall hold a public hearing thereon. At least fifteen (15) days notice of the time and place of such hearing shall be published in a news paper of general circulation in the City. The petitioner for such special permit shall provide evidence prior to the public hearing that he has notified the owners of all properties that are adjacent to, or located directly across the street from said lot, indicating to each the time and place of the public hearing and the specific use permit he is seeking. Such notice to surrounding owners shall be in written form and receipt acknowledged. Additionally, the petitioner shall post on the property in conspicuous locations two (2) signs provided by the City Building Inspector which shall notify the general public of the proposed use and public hearing.

(3) Following the public hearing, the Planning Commission shall, within thirty (30) days, transmit to the City Council its report as to the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utilities, and other matters pertaining to the general welfare, and the recommendation of the Planning Commission concerning the use thereon.

(4) Thereupon, the City Council may authorize or deny the special permit for the use of land or buildings as requested. In granting any permit, the City Council may prescribe appropriate conditions and safeguards as are deemed necessary.

### Section 4

#### FEES

Before any action shall be taken as provided in this section, the petitioner shall deposit with the City Treasurer the sum of one hundred dollars (\$100.00), and under no condition shall said sum or any part thereof be refunded for failure of said permit to be approved by the City Council.

## ARTICLE VII

### NON-CONFORMING STRUCTURES AND USES OF LAND AND STRUCTURES

#### Section 1

##### NON-CONFORMING USE OF LAND

Where, on the effective date of adoption of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of these zoning regulations as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Ordinance.
- (2) If any such non-conforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- (3) In a residential zone, no such non-conforming use of land shall be continued for more than two (2) years from date of adoption of this Ordinance or after effective date of annexation.

#### Section 2

##### NON-CONFORMING STRUCTURE

Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Ordinance that could not be built under the terms of these regulations by reasons of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) Such structure, upon approval of the Board of Zoning Adjustment, may be remodeled to maintain the premises in a safe and usable condition.
- (2) Should a structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be re constructed except in conformity with the provisions of this Zoning Ordinance.
- (3) Such structure, upon the approval of the Board of Adjustment, may be added to if said addition meets the area requirements of the land use zoning district

in which the structure is located, provided said use of structure is in conformance with this Zoning Ordinance.

### Section 3

#### NON-CONFORMING USE OF STRUCTURE

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Zoning Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this Zoning Ordinance in the district in which it is located shall be structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any non—conforming use may be extended to any portion of a structure arranged or designed for such non—conforming use at the time of adoption or amendment of this Zoning Ordinance, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any non—conforming use of a structure or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment shall determine that the proposed use is equally appropriate to the district as the existing non—conforming use.

(4) Any non—conforming use, once changed to a conforming use, shall thereafter conform to the regulations for the district in which such structure is located and all new uses shall be conforming uses.

(5) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

## ARTICLE VIII

### ADMINISTRATION AND ENFORCEMENT

#### Section 1

##### ADMINISTRATIVE OFFICIAL

The provisions of this Zoning Ordinance shall be administered by an administrative official designated by the City Council. He may be provided with the assistance of such other persons as the City Council may direct.

#### Section 2

##### BUILDING PERMIT

A building permit will be issued only when the application has been approved by the administrative official as meeting the requirements of this Zoning Ordinance. All applications for building permits shall be accompanied by a plan in duplicate drawn to scale, the size of the building to be erected and its location on the lot, and such other information as may be necessary to provide for the administration of this Zoning Ordinance. A record of such application and plat shall be filed in the office of the enforcement officer.

#### Section 3

##### CERTIFICATE OF OCCUPANCY AND COMPLIANCE

No building hereinafter erected or structurally altered shall be used, occupied, or changed in use until a certificate of occupancy and compliance shall have been issued by the administrative official, stating that the building or proposed use of a building or premises complies with the building laws and provisions of this Zoning Ordinance. A record of all certificates of occupancy and compliance shall be kept by the administrative official. A certificate of occupancy and compliance may be revoked by the administrative official when it is found that the building or land does not conform to the use or condition, if any, in the certificate. Each day a use continues after revocation of the certificate shall constitute a separate offense and shall be punished as provided herein.

#### Section 4

##### PENALTY FOR VIOLATION

Any person or corporation who shall violate any of the provisions of this Zoning Ordinance or fail to comply thereafter with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement of plans submitted and approved hereunder, shall be guilty of a misdemeanor and shall be liable to a fine of not more than one hundred dollars (\$100.00).

Each day such violation is permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this Ordinance shall be placed, or shall exist, and any architect, building, contractor, agent, engineer, person, or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be fined as hereinabove provided.

## Section 5

### AMENDMENTS

Two types of amendments to this Zoning Ordinance are recognized, one being a revision in the textual provisions of the Ordinance and the other being a change of boundary in a zoning district.

#### A. amendment to Text

The City Council may suggest that the Planning Commission amend the text of this Zoning Ordinance or the Planning Commission itself may desire to initiate an amendment. Should the Planning Commission, after study, request a change in the text, it shall conduct a public hearing on the proposed textual amendment. Following the public hearing, such recommendation shall be submitted to the City Council for adoption.

#### B. Change in District Boundary

If the owner of property desires to revise the boundary line of a zoning district, he or his legally designated agent shall submit to the Planning Commission a petition for such rezoning. The petition shall provide the legal description of the property proposed for revision in boundary, a description of the property as it is generally identified or known by the public (such as a street address; or in the case of a large tract, a description of its general boundaries), the zoning classification requested for the property, a map or diagram showing proposed improvements to the property, an explanation of the relationship of the proposed use to land uses surrounding the property, and any other optional information which the owner feels should be brought to the attention of the Planning Commission. The disposition of the petition shall be in accordance with the provisions of Sections 6 and 7 below.

## Section 6

### NOTICE

Before a proposed revision in the boundary of a zoning district may be recommended by the Planning Commission to the City Council, it must be the subject of a public hearing. Notice of the public hearing on the rezoning petition shall be published in a news paper of general circulation in the City at least one (1) time

fifteen (15) days prior to the hearing. Additionally, the owner- petitioner shall submit to the Planning Commission prior to the public hearing evidence that he has contacted in written form the owner or owners of each separate parcel of land that is adjacent to, or located directly across the street from said lot indicating to each affected owner the content of his rezoning petition as required above in Section 5,B. For this purpose the owner-petitioner shall present a plat map showing the location of affected properties together with the owner of record and written acknowledgement from each owner of receipt of proper notification. Finally, the administrative official shall cause the owner to place two (2) signs in conspicuous places on the site of property proposed for rezoning indicating the date and place of the public hearing on the rezoning proposal, said signs to be placed on-site not fewer than fifteen (15) days prior to the date of the hearing. The City will furnish the required signs. •

## Section 7

### HEARING AND APPROVAL

If all procedural requirements above are satisfied, the Planning Commission and the City Council shall proceed in the following manner:

- (1) The Planning Commission shall conduct the public hearing on the proposed amendment to the Ordinance and/or Official Zoning Map.
- (2) Following the public hearing, the proposed amendment or change of district boundary may be approved as presented or in modified form by a majority vote of the Planning Commission with recommendation for adoption by the City Council, or with reasons for such recommendations stated in writing.
- (3) If the Planning Commission disapproves a proposed amendment or rezoning petition, the reason for such disapproval shall be given in writing to the petitioner within thirty (30) days from the date of the hearing.
- (4) Following disapproval of a proposed amendment by the Planning Commission, the petitioner may appeal such disapproval to the City Council, provided that the petitioner states specifically in writing to the City Clerk why he considers the Planning Commission's findings and decisions are in error. Such appeal to the City Council shall be filed with the City Clerk within fifteen (15) days after receipt in writing of the Planning Commission's denial.
- (5) The City Council, by a majority vote, may, by ordinance, adopt the recommended amendment submitted by the Planning Commission or may return the proposed

amendment to the Planning Commission for further study and recommendation.

(6) If the City Council does not concur with the recommendation of the Planning Commission, either as first submitted or as submitted after re—study, the City Council may, by majority vote, amend this Ordinance by granting the request for amendment in full or in modified form.

(7) No application for a zoning amendment will be reconsidered by the Planning Commission for a period of six (6) months of elapsed time from the date of final disapproval of the proposed amendment, unless the Planning Commission determines by three-fourths (3/4) majority vote that a substantial reason exists for waiving this mandatory waiting period.

## Section 8

### FEES

Before any action shall be taken as provided in this section, any private party or parties proposing a change in the zoning regulations or district boundaries shall deposit with the City Treasurer the sum of twenty-five dollars (\$25.00) to cover the approximate cost of this procedure, and under no condition shall said sum or any part thereof be refunded for failure of said change to be adopted by the City Council.

## ARTICLE IX

### BOARD OF ADJUSTMENT

#### Section 1

##### CREATION AND APPOINTMENT

There is hereby created a City Board of Adjustment which shall consist of the Planning Commission as a whole. Their terms shall run concurrently with their appointment to the Planning Commission. On the effective date of this Ordinance, the members of the Board of Adjustment that was legally in existence immediately prior to such date shall be constituted as members of the Board of Adjustment hereby created.

#### Section 2

##### ORGANIZATION

###### A. Officers

A Chairman and Vice Chairman shall be elected annually by the Board from among its membership. The Chairman, or in his absence the Vice Chairman, shall preside at all meetings, shall decide all points of order or procedure, and, as necessary, shall administer oath and compel the attendance of witnesses.

###### B. Rules and Meetings

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Zoning Ordinance. Meetings shall be held on a regular schedule and at such other times as the Board may determine. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact, it shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the City Clerk. A quorum of the Board shall consist of five members. The concurring vote of a two-thirds majority of the total Board members shall be necessary to revise any order or decision of the enforcement officer or to decide on any matter upon which it is required to pass under this Ordinance.



### Section 3

#### POWERS AND DUTIES

The Board of Adjustment shall have all the powers and duties prescribed by law and by this Ordinance, which are more particularly described as follows:

##### A. Administrative Review

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this Zoning Ordinance. The Board may affirm or reverse, in whole or in part, said decision of the administrative official.

##### B. Variances

To authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship. A variance from the terms of this Zoning Ordinance shall not be granted by the Board of Adjustment unless and until:

(1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Ordinance; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Ordinance to other lands, structures, or buildings in the same district.

(2) No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Zoning Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safe guards in conformity with this Zoning Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance.

(6) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district.

### C. Special Exceptions

In addition to the powers and duties specified above, the Board shall also have the following powers and duties to hold public hearings and decide the following special expectations:

(1) Permit the extension of a zoning district boundary where the boundary divides a lot held in a single ownership at the time of adoption of this Ordinance.

(2) Interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground are at variance with those shown on the Zoning District Map.

(3) Vary the parking regulations by not more than fifty percent (50%) where it is conclusively shown that the specific use of a building would make unnecessary the parking spaces otherwise required by this Ordinance.

(4) Permit a change in use or occupancy of a non conforming use, provided the use is within the same or more restricted as the original non—conforming use.

## Section 4

### PROCEDURE FOR APPEALS

#### A. Application

Appeals to the Board may be taken by any person aggrieved or by any officer, department, or board of the City affected by any decision of the administrative official. All appeals and applications made to the Board shall be made in writing on forms prescribed by the Board within ten days after the decision has been rendered by the administrative official.

#### B. Public Hearing and Notice

The Board shall fix a reasonable time for the public hearing of an appeal, give public notice of the time and place thereof, as well as due notice to the parties in interest, and decide same within a reasonable time. Said public notice shall be published at least once not less than seven days preceding the date of such hearing in a newspaper of general circulation in the City. The public notice shall give the particular location of the property on which the appeal is requested, as well as a brief statement of what the appeal consists. At a public hearing any party may appear in person, by agent, or by attorney.

#### C. Effect of Appeal

An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the Board, 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 a court of record on application, and notice to the person from whom the appeal was taken.

#### D. Time Limit on Permits

No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than sixty (60) days unless such use is established or the erection or alteration is started within such period.

#### E. Fee

The fee for any appeal or application to the Board shall be \$15.00, no part of which shall be refundable. The Secretary of the Board shall deposit with the City Clerk each month all fees collected during the preceding month.

#### F. Appeals from Board of Adjustment

Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of Arkansas.

## ARTICLE X

### DEFINITIONS

A. For the purpose of interpreting these regulations, words used in the present tense shall include the future tenses; words in the singular number include the plural, and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word “shall” is mandatory and not directory. The word “person” includes a firm, partnership, or corporation as well as an individual.

B. For the purpose of interpreting these regulations, certain terms and words are to be used and interpreted as defined hereinafter.

**Accessory Buildings and Uses** An accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the same lot as, the use of the main building or principal use of the land. An accessory use is one which is clearly incidental to, or customarily found in connection with, and one the same lot as, the main use of the premises. When “accessory” is used in the text, it shall have the same meaning as accessory use.

**Alley** A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

**Apartment** A multiple family dwelling (see “Dwelling, Multiple”).

**Automobile Junk or Salvage Yard** An area outside of a building where motor vehicles are disassembled, dismantled, junked, or “wrecked”, or where motor vehicles not in operable condition or used parts of motor vehicles are stored.

**Building** Any structure including a roof supported by walls, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property and forming a construction that is safe and stable; the word building shall include the word structure.

**Block Front** All of the property on one side of the street between two intersecting streets or between an intersecting street and the deadend of a street.

**Building Coverage** The percentage of the lot area covered by the building. The building area shall include all overhanging roofs.

**Building, Height of** The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the structure, exclusive of chimneys, ventilators, or other extension above the roof line that are not intended for occupancy or internal usage by persons.

**Building, Main or Principal** A building in which is conducted or intended to be conducted, the main or principal use of the lot on which said building is located.

**Child Care Center** Any place, home or institution which receives five or more children under the age of sixteen (16) years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, when received for regular periods of time for compensation; provided, however, this definition shall not include public and private schools organized, operated or approved under the laws of this State, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree of the custodial persons, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or engaged in church activities.

**Clinic, Dental or Medical** A facility for the examination and treatment of ill and afflicted human out-patients; provided, however, that patients are not kept overnight except under emergency conditions.

**Country Club** A chartered, non-profit membership club catering primarily to its membership, providing one or more of the following recreational and social activities: golf, swimming, riding, outdoor recreation, club house, locker room, and pro shop.

**District, Zoning** Any section, sections, or divisions of the City for which the regulations governing the use of land, density, bulk, height, and coverage of buildings and other structures are uniform.

**Drive—in Commercial Uses** Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theaters, and similar uses.

**Dwelling** Any building, or portion thereof, which is designed or used as living quarters for one or more families, but not including house trailers, mobile homes, or travel trailers.

**Dwelling, Attached** A dwelling having any portion of one or more walls in common with adjoining dwellings.

**Dwellings, Detached** - a dwelling having open space on all sides.

**Dwelling, Single-Family** -A dwelling designed to be occupied by one family.

**Dwelling, Two-Family A** dwelling designed to be occupied by two families living independently of each other.

**Dwelling, Multiple-Family A** dwelling designed for occupancy by three or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or resort-type hotels.

**Dwelling, Townhouse or Row House** Two or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family.

**Dwelling Unit** A room or group of rooms within a dwelling and forming a single habitable unit with facilities for living, sleeping, and cooking.

**Family :** One or more persons related by blood or marriage, including adopted children, or a group of not to exceed four (4) persons not all related by blood or marriage, occupying premises and living as a single, non-profit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family may include domestic servants employed by said family.

**Floor Area** The sum of the gross horizontal areas of all of the floors of a building or buildings measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings.

**Garage, Private** An accessory building or a part of a main building used for storage purposes only for automobiles used solely by the occupants and their guests of the building to which it is accessory.

**Garage, Public or Repair** A building in which are provided facilities for the care, servicing, repair, or equipping of automobiles.

**Gasoline or Service Station** Any building, structure, or land used primarily for the dispensing, sale of fuels, oils, accessories, or minor maintenance and repair services but not including painting, major repairs, or automatic washing facilities.

**Home Occupation** Any occupation or profession carried on only by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory building; provided that no trading in merchandise is carried on and in connection with which there is no display of merchandise or sign other than one non-illuminated name plate, not more than four (4) square feet in area attached to the main or accessory building, and no mechanical equipment is used or activity is conducted which creates any noise, dust, odor, or electrical disturbance beyond the confines of the lot on which said occupation is conducted. The conducting of a beauty or

barber shop, tea room or restaurant, rest home, clinic, doctor or dentist office, child care center, tourist home, real estate office, or cabinet, metal, or auto repair shop shall not be deemed a home occupation.

**Hospital** An institution providing health services primarily for human in-patient or medical or surgical care for the sick or injured, and including related facilities such as laboratories, out patient departments, training facilities, central service facilities and staff offices which are an integral part of the facilities.

**Hotel** A building or part thereof occupied as a more or less temporary abiding place for individuals in which the rooms are usually occupied singularly for hire and in which rooms no provisions for cooking is made, and in which building there is usually a kitchen and public dining room for the accommodation of the occupants and guests. This definition does not include an auto or trailer court or camp, sanitorium, hospital asylum, orphanage, or building where persons are housed under restraint.

**Kennel** Any lot or premises on which four (4) or more dogs, more than six months of age are kept for personal use or boarding.

**Lot:** A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance including one main building together with its accessory building, and the open spaces and parking spaces required by this Ordinance, and having its principal front age upon a Street.

**Lot of Record** A lot or parcel of land, the deed to which has been recorded in the office of the County Recorder of Howard County prior to the adoption of this Ordinance.

**Lot, Corner** A lot abutting upon two or more streets at their intersection.

**Lot, Double Frontage** A lot which is an interior lot extending from one street to another and abutting a street on two ends.

**Lot Lines** The lines bounding a lot as defined herein.

**Lot Line, Front** In the case of an interior lot, the line separating said lot from that street which is designed as the front street in the request for a building permit.

**Lot Line, Rear** The lot boundary opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line.

**Lot Line, Side** Any lot line other than a front or rear lot line is defined herein.

**Lot Width** The width of a lot measured at the front building set back line.



**Mobile Home** Any vehicle or similar portable structure that is not self-powered originally having no foundation other than wheels, jacks, or skirting, and so designed or constructed as to permit Occupancy for dwelling or sleeping purposes.

**Mobile Home Park Land** or property containing a minimum of three (3) acres which is used or intended to be used or rented for occupancy by mobile homes or movable sleeping quarters of any kind.

**Motel** A motel or motor court is a business comprised of a building or group of buildings so arranged as to furnish overnight accommodations for transient guests.

**Nonconforming Use** Any building or land lawfully occupied by a use at the time of passage of this Ordinance which does not conform with the use or area regulations of the district within which it is located..

**Nursing Home** Any premises where more than three persons are lodged and furnished with meals and nursing care.

**Parking Lot** - An off-street facility including parking spaces and drives and aisles for maneuvering, and providing access and for entrance and exit, developed in a way to accommodate the parking of automobiles.

- **Parking Space** An off-street space available for the parking of one (1) motor vehicle and having an area of not less than one hundred eighty (180) square feet exclusive of passageways and driveways, and having direct access to a street or alley. It shall measure not less than 9' x 20'.

**Principal Use** The specific primary purpose for which land, building, or structure is used or intended to be used.

**Public Utility** Any person, firm, corporation, municipal department, or board duly authorized to furnish and furnishing under regulations to the public, electricity, gas, telephone, television cable, telegraph, transportation, drainage, water, or sanitary sewage.

**Service Station** See Gasoline Service Station.

**Setback Distance** between the 1 line and the building line.

**Sign** A sign is any structure or part thereof, or any device attached to, painted on, or represented on a building or other structure, upon which is displayed or included any letter, works model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature of an announcement, direction, advertisement, or other attention directing device. A sign shall not include a similar structure or device located within a building except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant, or insignia of any state, city, or other

political unit, or any political, charitable, educational, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event.

**Sign Area** The area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area.

**Story** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and ceiling next above it. A half story is a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of each story. -

**Street** Any public or private thoroughfare which affords the principal means of access to abutting property.

**Structure** Anything constructed or erected, the use of which requires a fixed location on the ground or attached to something having a fixed location on the ground.

**Structural Alterations** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

**Trailer Court** See Mobile Home Park.

**Yard** An open space on the same lot with a building unobstructed from the ground upward and measured as the minimum horizontal distance between the lot line and the main building.

**Yard, Front** A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, terraces, or uncovered porches. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

**Yard, Rear** A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line in the rear of the main building or any projection other than steps, unenclosed porches, or entranceways.

**Yard, Side** A yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.

## ARTICLE XI

### VALIDITY AND REPEAL

#### Section 1

##### VALIDITY

This Zoning Ordinance and the various parts, sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, sentence, or paragraph, section or sub— section, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Zoning Ordinance shall not be affected thereby.

The City Council of the City of Nashville hereby declares that all such remaining parts would have been passed irrespective of the validity or invalidity of any parts found to be invalid.

#### Section 2

##### REPEAL

All ordinances or parts of ordinances in conflict with this Zoning Ordinance, or inconsistent with provisions of this Ordinance are hereby repealed to the extent necessary to give this Zoning Ordinance full force and effect upon its adoption by ordinances of the City Council of the City of Nashville, Arkansas.