



## ORDINANCE NO. 622

AN ORDINANCE MOVING AND REPEALING THE PROVISIONS OF CITY OF SPRINGFIELD ORDINANCE SECTIONS 32.01-32.08 AND AMENDING THE ZONING ORDINANCE OF THE CITY OF SPRINGFIELD, CHAPTER 153.

BE IT ORDAINED by the City of Springfield, South Dakota, that Sections 32.01 through 32.08 of Chapter 32, Title III, of the Revised City Ordinance of the City of Springfield 2023, be repealed;

BE IT FURTHER ORDAINED by the City of Springfield that Chapter 153, Title XV, of the Revised City Ordinance of the City of Springfield 2023, be amended as follows:

§ 32.01 ESTABLISHMENT AND PROCEDURE. (REPEALED) § 32.02 PROCEEDINGS. (REPEALED)

§ 32.03 POWERS. (REPEALED)

§ 32.04 APPEALS PROCESS. (REPEALED)

§ 32.05 FEES, CHARGES, AND EXPENSES. (REPEALED)

### GENERAL PROVISIONS

#### § 153.000 DESIGNATION OF CHAPTER; INTENT AND PURPOSE

(A) This Ordinance shall be known, cited and referred to as "The Official Zoning Ordinance of the City of Springfield, Bon Homme County, South Dakota, to the same effect as if the full title were stated.

(B) This ordinance is adopted for the following reasons:

(1) To provide for the citizens of Springfield adequate light, pure air, safety from fire and other dangers; to conserve the value of land and buildings; to lessen or avoid congestion of traffic in the public streets; and to promote the public health, safety, comfort, convenience, and general welfare;

(2) To promote the character and stability of residential, business, and manufacturing areas within the City of Springfield and to promote the orderly and beneficial development of such areas;

(3) To preserve the esthetic quality of the city, and also historic and cultural areas; and

(4) To establish restrictions in order to attain these objectives by adopting a zoning ordinance which will create districts into which the city is divided, and provide for the requirements upon the intensity of the use of land and buildings, off-street parking facilities, the provision for administration and enforcement, the penalties for violation of the ordinance, and the procedure, powers and duties of the Board of Adjustment, Planning Commission, and Common Council.

#### § 153.001 ESTABLISHMENT OF ZONING MAP.

(A) The city is hereby divided into zones, or districts, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this chapter.

(B) The official zoning map shall be identified by the signature of the Mayor attested by the Municipal Finance Officer and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in the 2023 revised ordinances of the City of Springfield, South Dakota" together with the date of the adoption of this chapter.

(C) The official zoning map, and all changes, amendments, or additions thereto, shall be located in the office of the Municipal Finance Officer (or other place easily accessible to the public).

(Prior Code, § 3.0101)

#### § 153.002 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of a district, as shown on the official zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot line;

(C) Boundaries indicated as approximately following city limits shall be construed as following such city limits;

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(E) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

(F) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;

(G) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by divisions (A) through (D) above, the Board of Adjustment shall interpret the district boundaries; and

(H) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Adjustment may permit, as a Variance or Conditional Use as the case may be, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Prior Code, § 3.0102) (Ord. 451, passed 9-11-2000)

#### § 153.003 APPLICATION OF DISTRICT REGULATIONS.

(A) The regulations set by this chapter within each district shall be minimum regulations, and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

(B) No building, structure, or land shall hereafter be used or occupied, and no building or structure or portion thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located; provided, however, that outside of the corporation limits of the city, the use of land for farming or agricultural purposes, except commercial feed lots, is specifically excepted from the provisions of this chapter.

(C) No building or other structure shall hereafter be erected or altered:

- (1) To exceed the height or bulk;
- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area; and/or

(4) To have a narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner contrary to the provisions of this chapter.

(D) No part of a yard, or other open space, or off-street parking or loading space required about, or in connection with, any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(E) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this section shall meet at least the minimum requirements established by this chapter.

(F) All territory, which may hereafter be annexed to the city, shall be considered to be in the Agricultural District until otherwise classified.

(G) All uses and structures not specifically listed as a permitted use, special permitted use, or as a conditional use in a particular zoning district shall be prohibited in said district.

(Prior Code, § 3.0103)

(Ord. 607, passed 11-15-2021)

#### § 153.004 NON-CONFORMING USES.

(A) (1) A non-conforming use of a building and land at the time of the adoption of the zoning ordinance incorporated in this chapter may be continued, although such use does not conform with the provisions hereof.

(2) Such use may be extended throughout the building, provided no structural alterations, except those required by law or ordinance, are made therein.

(B) The following additional regulations shall apply.

(1) Whenever a district shall be hereafter changed, any then existing non-conforming use in such changed district may be continued, provided all other regulations governing the use are complied with.

(2) A non-conforming use that is changed to a conforming use shall not thereafter be changed back to any non-conforming use.

(3) A non-conforming use, if changed to a more restricted non-conforming use, shall not thereafter be changed unless to a still more restricted use.

(4) Where a building located in a district restricted against its use has been destroyed by fire or other calamity to the extent of not more than one-half of its assessed value, a permit may be granted for its reconstruction within a period of not to exceed six months from the date of such fire or other calamity.

(5) Where a non-conforming use has existed, and such non-conforming use is not exercised or continued for a period of one year, such non-conforming use shall cease to exist and the premises and building, or buildings, which have been subjected to such non-conforming use shall thereafter conform to the use and regulation of the district in which such premises or building is located.

(Prior Code, § 3.0104)

#### § 153.005 ADOPTED DISTRICT REGULATIONS.

(A) District regulations shall be as set forth in the schedule of district regulations, hereby adopted by reference and declared to be a part of this chapter, and in §§ 153.215 through 153.225.

(B) For purposes of this chapter, the following zoning districts and zoning map designations are established:

- (1) A: Agricultural;
- (2) R1: Single-Family Residential;
- (3) R2: Two-Family Residential;
- (4) R3: Multiple-Family Residential;
- (5) C: Commercial;
- (6) HC: Highway Commercial;
- (7) I: Industrial;
- (8) E: Environmental Conservation;
- (9) M: Manufactured Home Park; and
- (10) V: Vacation; Recreation Area.

(Prior Code, § 3.0105)

#### § 153.006 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCESSORY USE or STRUCTURE.** A use or structure on the same lot with, and of a nature customarily incidental, and subordinate to, the principal use or structure.

**ALLEY.** A thoroughfare generally 16 feet in width, and generally less than 22 feet in width, unless otherwise designated by ordinance. It is an area or lane platted as a thoroughfare through the center of a block.

**ARCHITECTURAL METAL.** Metal that is factory-fabricated and finished with a durable non-fade surface and fasteners of a corrosion-resistant design. Excludes pre-weathered metal and galvanized metal.

**BUILDABLE AREA.** The portion of a lot remaining after required yards have been provided.

**BUILDING.** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

**BUILDING HEIGHT.** Building height shall be the vertical height, as measured from the average elevation of the natural grade of the four (4) major corners where the structure is to be located, to the roofline. For a home that steps down a slope, the four (4) major corners of each step of the main structure can be used

**BOARDING AND LODGING HOUSES.** A boarding house or lodging house is defined as a structure that accommodates up to 16 individuals, either temporarily or permanently. It does not meet the criteria for DWELLING or any of its variations or a DWELLING UNIT and does not offer personal care services. While meals may be provided, the facility lacks individual cooking amenities for residents.

**CAMPGROUND.** An area used for a range of overnight camping experiences, from tenting to serviced trailer sites, including accessory facilities which support the use, such as administration offices, laundry facilities, but not including the use of mobile homes or trailers on a permanent year-round basis.

**CAMP SITE.** A camping establishment that is occupied on a temporary basis only, by a trailer, motorized mobile home, truck camper, camper or tent, but not a mobile home.

**CANNABIS OR MARIJUANA.** All parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing, and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. (hemp) and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of 1% on a dry weight basis.

(1) **CANNABIS CULTIVATION FACILITY.** In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

(2) **CANNABIS DISPENSARY.** In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

(3) **CANNABIS ESTABLISHMENT.** A cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

(4) **CANNABIS PRODUCT MANUFACTURING FACILITY.** In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

(5) **CANNABIS PRODUCTS.** Any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or

consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

(6) CANNABIS TESTING FACILITY. In addition to the definition in SDCL § 34-20G-1, this term is further defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

COMMERCIAL MOTOR VEHICLE. any motor vehicle used or maintained for the transportation of persons or property for hire, compensation, or profit; or designed, used, or maintained primarily for the transportation of property in commerce.

DAYS. In this chapter reference to a given number of days shall be calculated as calendar days unless otherwise specified.

DWELLING: A building or portion thereof, used exclusively for residential occupancy, including SINGLE-FAMILY, TWO-FAMILY, THREE-FAMILY, FOUR-FAMILY, MULTIPLE-FAMILY, MANUFACTURED HOME, and MODULAR HOME DWELLINGS, but not including hotels, Boarding and Lodging Houses, and house trailers, mobile homes or any structure that has been a house trailer or mobile home.

DWELLING, FOUR-FAMILY. A building having accommodations for, and occupied exclusively by, four families.

DWELLING, MANUFACTURED HOME. A moveable or portable dwelling which is eight feet or more in width and 32 feet or more in length, constructed on a chassis, and which is designed to be towed, designed for year-round occupancy, primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units, separately transportable, but designed to be joined together into one integral unit. MANUFACTURED HOMES are built according to the Federal Manufactured Housing, Construction, and Safety Standards Act of 1974, revised 1999 and being 42 U.S.C. §§ 5401 et seq., and/or current standards. MANUFACTURED HOMES are not mobile homes.

(1) The age of the MANUFACTURED HOME may not exceed ten years from the date of manufacture.

(2) The MANUFACTURED HOME must meet or exceed the standards in effect on the date of its creation, as found in 24 C.F.R. Part 3280.

(3) The following shall not be included in this definition:

(a) Travel trailer, pickup coaches, motor homes, camping trailers, or other recreational vehicles; and

(b) Modular housing which is designed to be set on a permanent foundation and which uses standard sheathing, roofing, siding, and electrical, plumbing, and heating systems.

DWELLING, MOBILE HOME. A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal

Manufactured Housing, Construction, and Safety Standards Act of 1974, revised 1999, and/or current standards.

(1) The age of the mobile home may not exceed ten years from the date of manufacture.

(2) The mobile home must meet or exceed the standards in effect on the date of its creation as found in 24 C.F.R. § 3280.

**DWELLING, MODULAR HOME.** A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence, transportable in one or more sections on a temporary chassis or other conveyance device, and to be used as a permanent dwelling when installed and placed upon a permanent foundation system. This definition includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

**DWELLING, MULTIPLE-FAMILY.** A residential building designed for, or occupied by, five or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY.** A detached residential dwelling unit, other than a mobile home, designed for, and occupied by, one family only.

**DWELLING, THREE-FAMILY.** A building having accommodations for, and occupied exclusively by, three families.

**DWELLING, TWO-FAMILY.** A building having accommodations for, and occupied exclusively by, two families.

**DWELLING UNIT.** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwellings units which may be in the same structure, and containing independent cooking and sleeping facilities.

**FAMILY.** One or more persons occupying a single dwelling unit and living as a single nonprofit housekeeping unit.

**FARMSTEAD.** An area of 20 acres or more on which is located at least one dwelling unit and on which farm products of a value of \$1,000 or more are normally produced each year.

**HOME OCCUPATION.** An occupation conducted in a dwelling unit, provided that:

(1) No person other than members of the family residing on the premises shall be engaged in such occupation;

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the HOME OCCUPATION;

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not



exceeding one square-foot in area, non-illuminated, and mounted flat against the wall of the principal building;

(4) No HOME OCCUPATION shall be conducted in an accessory building;

(5) There shall be no sales in connection with such HOME OCCUPATION;

(6) No traffic shall be generated by such HOME OCCUPATION in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such HOME OCCUPATION shall be met off the street and other than in a required front yard; and

(7) No equipment or process shall be used in such HOME OCCUPATION which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the LOT, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

**GARAGE, PRIVATE.** An accessory building for the storage of not more than three (3) motor-driven vehicles, not more than one (1) of which may be a commercial motor vehicle.

**IMPERVIOUS SURFACES.** All areas in a lot of record covered by the principal building, any accessory buildings and any hard surfaced, non-naturally occurring area that does not readily absorb water, including, but not limited to, any paved, asphalt or concrete areas, swimming pools and sidewalks.

**ISOLATED ACCESSORY STRUCTURE.** An ACCESSORY STRUCTURE not located on the same LOT as the primary use or structure, but which otherwise maintains a nature customarily incidental, and subordinate to, the principal use or structure.

**LOT.** A parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, the open spaces and parking spaces required by this chapter, and fronting upon a street.

**LOT FRONTAGE.** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this section.

#### **LOT MEASUREMENTS.**

(1) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front, and the rearmost points of the side lot lines in the rear.

(2) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost

points (where they intersect with the street line) shall not be less than 80% of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the 80% requirement shall not apply.

**LOT OF RECORD.** A lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**PERSON.** A firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**PRINCIPAL USE.** The main purpose for which a parcel of land or a structure is used, as distinguished from an accessory use of land or structures. The term "primary use" is synonymous with the term "principal use." The principal use shall be determined by one or more of the following:

(1) Any use which physically occupies a majority of a parcel of land and/or a structure;  
or

(2) Any use which constitutes a majority of the activity conducted on a parcel in relative terms of, for example, sales or rental volume of materials or services offered; prominence of on-site display or advertisement of materials or services offered; type of materials or services offered; amount of stock or inventory; hours of operation devoted to a particular sales or service activity; occupation of inhabitants or employees; and/or the purpose or attraction of the occupation

**SANITARY LANDFILL.** An operation in which garbage or refuse is deposited by a plan on a specified portion of land, is compacted by force applied by mechanical equipment, and then is covered by compacted suitable covering material to a depth of at least six inches over individual cells of garbage or refuse, and to a depth of at least 24 inches over the finished landfill. The site is closed at the end of each day.

**SHALL.** Mandatory.

**SHOUSE.** A structure that contains a dwelling unit within or attached to an oversized garage, storage space, or personal workshop. SHOUSES may be constructed using ARCHITECTURAL METAL or conventional building materials.

**SIGN.** Any outdoor advertising having a permanent location on the ground, or attached to or painted on a building including bulletin boards, billboards, and poster boards.

**CONDITIONAL USE.** A use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. CONDITIONAL USES may be permitted in a zoning district only if specifically provided for in this Ordinance, and only after an application therefor has been approved in accordance with the Ordinance.

**STREET.** A thoroughfare or lane platted for vehicular traffic, generally wider than an alley, and generally including the sidewalk abutting non-street property.

**STREET LINE.** The right-of-way line of a street.

**STRUCTURE.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, **STRUCTURES** include buildings, mobile homes, walls, fences, billboards, and poster panels.

**TRAVEL TRAILER.** A vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

**USED or OCCUPIED.** Includes the words intended, designated, or arranged to be used or occupied.

**VARIANCE.** Relief from, or variation of, the provisions of these regulations, other than use regulations, as applied to a specific piece of property, as distinct from rezoning, as further set out hereinafter in the powers and duties of the Board of Adjustment.

**YARD.** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard the minimum horizontal distance between the lot line and the main.

**YARD, FRONT.** A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

**YARD, REAR.** A yard across the full width of the lot between the back line of the main building and the back line of the lot.

**YARD, SIDE.** A yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.

(Prior Code, § 3.1701)

(Ord. 451, passed 9-11-2000; Ord. 602, passed 10-7-2019; Ord. 607, passed 11-15-2021)

#### §153.007 JURISDICTION

The provisions of this Ordinance shall apply within the incorporated areas of the City of Springfield, Bon Homme County, South Dakota, as established on the Official Zoning Map.

#### § 153.008 MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Zoning Ordinance shall be held to be minimum requirements for the promotion of public health, safety, welfare, and esthetic quality in the City of Springfield.

#### § 153.009 RELATIONSHIP WITH OTHER LAWS

Whenever the provisions of this Ordinance require a greater width or size of yards, courts or other spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required, in any other ordinance, resolution, rule or regulations the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance, resolution, rule or regulation require a greater width or size of yards, courts, or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

#### § 153.010 EFFECT ON EXISTING AGREEMENTS

This ordinance does not abrogate existing easements, covenants, or any other private agreements provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall prevail.

#### § 153.011 SCOPE OF REGULATIONS

Except as may otherwise be provided in the nonconforming uses section of this ordinance, all buildings erected hereafter, all structural alterations or relocations, all uses of land or buildings established and all enlargements of or additions to existing uses occurring after the adoption of this ordinance shall be subject to all regulations of this ordinance which are applicable to the zoning district in which such buildings, uses, or land shall be located.

#### § 153.012 DIMENSIONAL REQUIREMENTS

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

#### § 153.013 ANNEXATIONS TO THE CITY

Any area annexed to the City of Springfield shall, upon such annexation be automatically zoned "Agricultural" until in the waiver provided for amendments to this ordinance, appropriate zoning has been recommended to the Common Council by the Planning Commission and the Common Council has taken action thereon. The Planning Commission shall submit recommendations for the zoning of the annexed area within three (3) months after the date of annexation.

#### § 153.014 CLASSIFICATION OF UNLISTED USES:

(A) Purpose - In order to ensure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory or a conditional use in a District shall be deemed a permitted, accessory or conditional use in one or more districts on the basis of similarity to uses specifically listed.

(B) Application - Application for determination that a specific use should be included as a permitted, accessory or conditional use in a District shall be made in writing to the Zoning

Administrator and shall include a detailed description of the proposed use and such other information as may be required by the Board of Adjustment to facilitate the determination.

(C) Investigation - The Board of Adjustment shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the ordinance and to determine its classification.

(D) Determination - The determination of the Board of Adjustment shall be rendered in writing within sixty (60) days from application and shall include findings supporting the conclusion.

(E) Effective Date of Determination - Within five (5) days following the date of a decision, the Board of Adjustment shall transmit to the Common Council and petitioner written notice of the decision, at which time the classification of the unlisted use shall become effective.

## ZONING DISTRICTS

### A: AGRICULTURAL

#### § 153.020 INTENT.

(A) This district is intended to provide for general agricultural use.

(B) All land annexed into the city shall be classified as an Agricultural District until the need to change the zoning is demonstrated to the Zoning Commission, and an application for change of zone is filed in accordance with § 153.254 of this code.

(Prior Code, § 3.0201)

#### § 153.021 PRINCIPAL PERMITTED USES.

(A) All agricultural uses except sales and auction yards or barns;

(B) Plant nurseries and truck gardens;

(C) Riding stables;

(D) Single-family dwellings, and modular and manufactured homes, as part of a farming operation; and

(E) Lumbering, mining, and extraction of minerals or raw materials.

(Prior Code, § 3.0202) (Ord. 451, passed 9-11-2000)

§ 153.022 PERMITTED ACCESSORY USES AND STRUCTURES.

- (A) Uses and structures customarily incident to the principal use of the district;
- (B) Temporary roadside stands for retail sale of produce; and
- (C) Customary home or farmstead occupations.

(Prior Code, § 3.0203)

§ 153.023 CONDITIONAL USE USES AND STRUCTURES.

- (A) Temporary fairgrounds and amusement parks not closer than 500 feet to any residential district, with no structure or apparatus within 30 feet of any property line;
- (B) Cemeteries;
- (C) Golf courses or country clubs;
- (D) Sanitary landfills for the proper disposal of refuse, provided such use shall not be located nearer than 1,000 feet to any residential district or dwelling;
- (E) Sewage treatment facilities or lagoons;
- (F) Utility substations necessary to the functioning of the utility, provided they are located in conformance to the yard requirements;
- (G) Airports;
- (H) Amphitheaters, stadiums, drive-in movies, arenas, and field houses;
- (I) Campgrounds;
- (J) Churches or other places of worship;
- (K) Federal government grain storage; and
- (L) One manufactured home per farmstead (20 acres), pursuant to § 153.224.

(Prior Code, § 3.0204) (Ord. 451, passed 9-11-2000)

§ 153.024 MINIMUM LOT AREA AND WIDTH.

The minimum lot area shall be one and one-half acres, and the minimum lot width at the front building line shall be 200 feet.

(Prior Code, § 3.0205)

§ 153.025 MINIMUM FRONT, SIDE, AND REAR YARDS.

The minimum yard dimensions shall be a front yard of not less than a 70 foot depth, a side yard of not less than 40 foot depth, and a rear yard of not less than a 50 foot depth.

(Prior Code, § 3.0206)

#### § 153.026 MAXIMUM HEIGHT.

No dwelling may have a Building Height in excess of 35 feet.

(Prior Code, § 3.0207)

#### § 153.027 SIGN REQUIREMENT.

All signs shall be maintained in a neat and presentable condition, and in the event they shall become illegible or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free of refuse and debris.

(Prior Code, § 3.0208)

### R1: SINGLE-FAMILY RESIDENTIAL

#### § 153.040 INTENT.

This district is intended to provide for a moderate density of single-family residential dwellings within the existing ranges of municipal services, or where municipal services can be obtained or developed economically.

(Prior Code, § 3.0301)

#### § 153.041 PRINCIPAL PERMITTED USES.

- (A) Dwelling, single-family;
- (B) Modular homes pursuant to § 153.224(A) through (H);
- (C) Churches and places of worship;
- (D) Public and private schools;
- (E) Public parks, playgrounds, or playfields;
- (F) Community buildings owned and/or occupied by public agencies; and
- (G) Nursing, convalescent, and retirement homes.

(Prior Code, § 3.0302) (Ord. 451, passed 9-11-2000)

§ 153.042 REQUIRED OFF-STREET PARKING.

- (A) Dwelling, single-family: one space per vehicle;
- (B) Churches and places of worship: one space for each six seats in principal assembly area;
- (C) Public and private schools: one space for each six seats in auditorium or stadium;
- (D) Public parks, playgrounds, or playfields: one space for each six seats in the grandstand or stadium; eight spaces per acre if a family picnic area; 20 spaces per acre if a group picnic area; none required for playgrounds or playfields;
- (E) Community buildings owned and/or occupied by public agencies: one space for each 300 square feet floor area; and
- (F) Nursing, convalescent, and retirement homes: one space for each four beds.

(Prior Code, § 3.0303)

§ 153.043 PERMITTED ACCESSORY USES AND STRUCTURES.

- (A) Private garage containing not more than three vehicle spaces;
- (B) Customary home occupations; and
- (C) Temporary buildings for uses incidental to construction work, provided such buildings are removed promptly upon termination of construction work.

(Prior Code, § 3.0304)

§ 153.044 CONDITIONAL USE USES AND STRUCTURES.

Subject to the requirements contained in this Chapter, the Board of Adjustment may permit the following:

- (A) Professional offices on lots of 5,000 square feet or more that provide one parking space for each 300 square feet of floor area, and are in conformance with the yard requirements for dwellings;
- (B) Funeral homes and mortuaries on lots of 12,000 square feet or more that provide one parking space for each 50 square feet of parlor area, and conform to the yard requirements for dwellings;



(C) Nursery schools or day-care centers operated as an accessory use to private, single-family residences on lots of 12,000 square feet or more;

(D) Electrical and gas distribution substations, and other public utility installations, provided that any building, substation, or other installation shall conform to the front and rear yard requirements for dwellings and have side yards of not less than 25 feet, but shall not include equipment storage, maintenance yards of buildings, or general administrative or sales offices;

(E) Dwellings, two-family;

(F) Manufactured homes, pursuant to § 153.224; and

(G) Isolated Accessory Structures, on the additional conditions that:

(1) The owner or owners of the lot on which the Isolated Accessory Structure is located also own a Lot with a Dwelling within the incorporated limits of the City of Springfield; The Isolated Accessory Structure is not used for any commercial or industrial purpose, application, or endeavor that would not otherwise be permitted in the zoning district in which it is located; and

(2) All Isolated Accessory Structures shall conform to the same yard requirements as dwellings.

(H) Shouses, on the additional conditions that:

(1) Shouses shall be structurally anchored to a permanent foundation that meets local, state, and/or international building codes.

(2) The ground floor of a Shouse shall contain a minimum of seven hundred twenty (720) square feet for dwelling purposes, exclusive of the ground floor area of the workshop/garage. Additional dwelling space may be contained within a loft above the workshop/garage.

(3) The gross floor area of a Shouse, that being the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls, but not including basement or attic areas not intended for living space, shall be not less than 50% residential area and use of the building.

(4) When lot is developed with a Shouse, construction of the dwelling area and the garage/workshop shall be completed at the same time.

(5) All Shouses shall have bathroom facilities, including a toilet, sink, and a bathtub or shower.

(6) All Shouses shall have a kitchen area with sink.

(7) All Shouses shall provide heating and cooling systems as required by local, state, and Federal codes.

(8) All electrical systems shall comply with all local, state, and Federal electrical codes.

(9) All Shouses shall comply with all egress requirements in local, state, and Federal codes.

(10) All structural changes to a Shouse, as well as any structural changes needed to convert an existing accessory structure (i.e., a garage, workshop, or barn) to a shouse with dwelling, shall be stamped and signed by a structural engineer.

(11) The total floor area of a Shouse and any accessory structure(s) shall not exceed the maximum lot coverage for the zoning district.

(12) Each side of the Shouse shall include some form of visual relief. Visual relief includes the incorporation of design features such as windows, horizontal and vertical patterns, contrasting colors, or varying wall depths.

(13) The storage/garage area must be completely within the enclosed building.

(14) There must be separate outside entrances for the living area and the storage/garage area.

(15) The separation wall of the storage/garage and residential shall be a firewall of 5/8-inch fire-code drywall.

(16) All Shouses shall conform to the same yard requirements as dwellings.

(Prior Code, § 3.0305)

#### § 153.045 MINIMUM LOT AREA AND WIDTH.

For single-family dwellings, the minimum required lot area and width are as follows:

(A) Area: 6,160 square feet; and

(B) Width: 44 feet.

(Prior Code, § 3.0306)

#### § 153.046 MINIMUM REQUIRED FRONT, SIDE, AND REAR YARDS.

(A) For single-family dwellings, the minimum required front, side, and rear yard measurements are as follows:

(1) Front: 20 feet;

(2) Side-interior lot: six feet;

(3) Side-corner lot: 20 feet; and

(4) Rear: 20 feet.

(B) All accessory structures shall conform to the same yard requirements as dwellings, except that a private garage may be built no closer than two feet to a rear lot line and no closer than 20 feet to any street line.

(Prior Code, § 3.0307)

#### § 153.047 MAXIMUM HEIGHT.

No structure may have a Building Height in excess of 35 feet.

(Prior Code, § 3.0308)

#### § 153.048 PERMITTED SIGNS.

(A) Name plate or home occupation sign not larger than one square foot in area.

(B) Temporary sign advertising the sale or lease of the premises, not larger than eight square feet in area.

(C) Church and public building bulletin boards not larger than 12 square feet in area.

(D) All signs shall be maintained in a neat and presentable condition. In the event that they shall become illegible or their use shall cease, they shall be removed within 15 days or be subject to a penalty as set forth in § 153.256.

(Prior Code, § 3.0309)

### R2: TWO-FAMILY RESIDENTIAL

#### § 153.060 INTENT.

This district is intended to provide for a moderate to high density of single-family and two family residential dwellings within the existing ranges of municipal services, or where municipal services can be obtained or developed economically.

(Prior Code, § 3.0401)

#### § 153.061 PRINCIPAL PERMITTED USES.

(A) Any use permitted in R1: Single-Family Residential;

(B) Dwellings, two-family;

(C) Dwellings, three-family;

(D) Dwellings, four-family;

(E) Manufactured homes, pursuant to § 153.224;

(F) Modular homes pursuant to § 153.224(A) through (H).

(Prior Code, § 3.0402) (Ord. 451, passed 9-11-2000)

#### § 153.062 REQUIRED OFF-STREET PARKING.

Same as required for R1: Single-Family Residential, § 153.042.

(Prior Code, § 3.0403)

#### § 153.063 PERMITTED ACCESSORY USES AND STRUCTURES.

Same permitted uses and structures as R1: Single-Family Residential, § 153.043.

(Prior Code, § 3.0404)

#### § 153.064 CONDITIONAL USE USES AND STRUCTURES.

Same conditional uses and structures as provided for in R1: Single-Family Residential, § 153.044.

(Prior Code, § 3.0405)

#### § 153.065 MINIMUM LOT AREA AND WIDTH.

For two-family dwellings, the minimum required lot area and width are as follows:

(A) Area: 6,336 square feet; and

(B) Width: 44 feet.

(Prior Code, § 3.0406)

#### § 153.066 MINIMUM REQUIRED FRONT, SIDE, AND REAR YARDS.

(A) For two-family dwellings, the minimum required front, side, and rear yard measurements are as follows:

(1) Front: 20 feet;

(2) Side-interior: six feet;

(3) Side-corner: 20 feet; and

(4) Rear: 20 feet.

(B) All accessory structures shall conform to the same yard requirements as dwellings, except that a private garage may be built no closer than two feet to a rear lot line and no closer than 20 feet to any street line.

(Prior Code, § 3.0407)

#### § 153.067 MAXIMUM HEIGHT.

No structure may have a Building Height in excess of 35 feet

(Prior Code, § 3.0408)

#### § 153.068 PERMITTED SIGNS.

Same permitted sign as provided in R1: Single-Family Residential, § 153.048.

(Prior Code, § 3.0409)

### R3: MULTIPLE-FAMILY RESIDENTIAL

#### § 153.080 INTENT.

This district is intended to provide for a high density of residential dwellings, including family units, within the existing ranges of municipal services.

(Prior Code, § 3.0501)

#### § 153.081 PRINCIPAL PERMITTED USES.

(A) Any use permitted in the R1 and R2 districts;

(B) Dwellings, multiple-family;

(C) Dwellings, three-family;

(D) Dwellings, four-family;

(E) Manufactured homes, pursuant to § 153.224; and

(F) Modular homes, pursuant to § 153.224(A) through (H).

(Prior Code, § 3.0502) (Ord. 451, passed 9-11-2000)

§ 153.082 REQUIRED OFF-STREET PARKING.

Multiple dwellings: one space per dwelling unit in the building.

(Prior Code, § 3.0503)

§ 153.083 PERMITTED ACCESSORY USES AND STRUCTURES.

(A) Private garages; and

(B) Temporary buildings for use incidental to construction work, provided such buildings are removed promptly upon termination of construction work.

(Prior Code, § 3.0504)

§ 153.084 MINIMUM LOT AREA AND WIDTH.

(A) Single-family dwelling.

(1) Area: 4,500 square feet; and

(2) Width: 44 feet.

(B) Two-family dwellings.

(1) Area: 2,500 square feet per family; and

(2) Width: 44 feet.

(C) Multiple-family dwellings.

(1) Area: 1,500 square feet per family; and

(2) Width: 44 feet.

(Prior Code, § 3.0505)

§ 153.085 MINIMUM REQUIRED FRONT, SIDE, AND REAR YARDS.

(A) For multiple-family dwellings and other permitted dwellings in this district, the minimum required front, side, and rear yard measurements are as follows:

(1) Front: 20 feet;

(2) Side-interior: six feet;

(3) Side-corner: 20 feet; and

(4) Rear: 20 feet.

(B) All accessory structures shall conform to the same yard requirements as dwellings, except that no private garage may be built closer than two feet to a rear lot line and no closer than 20 feet to any street line.

(Prior Code, § 3.0506)

#### § 153.086 MAXIMUM HEIGHT.

No structure may have a Building Height in excess of 45 feet .

(Prior Code, § 3.0507)

#### § 153.087 PERMITTED SIGNS.

(A) Name plate or home occupation sign not larger than one square foot in area;

(B) Temporary sign advertising the sale or lease of the premises, not larger than eight square feet in area; and

(C) All signs shall be maintained in a neat and presentable condition. In the event that they shall become illegible or their use shall cease, they shall be removed within 15 days or be subject to a penalty as set forth in § 153.256.

(Prior Code, § 3.0508)

#### C: COMMERCIAL

#### § 153.100 INTENT.

This district is intended to provide a downtown commercial area for business which provides community and trade area services.

(Prior Code, § 3.0601)

#### § 153.101 PRINCIPAL PERMITTED USES.

(A) Antique stores;

(B) Apparel and accessory stores;

- (C) Bakeries, retail only;
- (D) Banks;
- (E) Barber and beautician services;
- (F) Beer, wine, and alcoholic beverage retail stores;
- (G) Book and stationery stores;
- (H) Bowling alleys;
- (I) Camera and photographic supply stores;
- (J) Confectionery stores;
- (K) China and glassware stores;
- (L) Civic, social, and fraternal associations; community buildings owned by public agencies;
- (M) Credit services, including loan offices;
- (N) Community buildings owned by public agencies;
- (O) Dairy product retail stores;
- (P) Dental services;
- (Q) Department stores;
- (R) Drapery, curtain, and upholstery stores;
- (S) Drinking places, including taverns;
- (T) Drug and proprietary stores;
- (U) Dwellings, as permitted in the R3 District;
- (V) General merchandise retail stores;
- (W) Eating places, indoor (outdoor);
- (X) Electrical appliances and television sales and repair;
- (Y) Engineering and architectural services;
- (Z) Filling stations (gasoline stations);
- (AA) Finance, insurance, and real estate services;
- (BB) Floor coverings, retail;
- (CC) Food lockers without preparation facilities;



(DD) Food stores, general retail;  
(EE) Furniture, and home furnishings retail;  
(FF) Fur storage and retail;  
(GG) Gifts, novelties, and souvenir stores;  
(HH) Grocery stores;  
(II) Hardware retail stores;  
(JJ) Heating and air conditioning equipment retail;  
(KK) Jewelry retail;  
(LL) Laundry, self-service and/or dry cleaning plants;  
(MM) Legal services;  
(NN) Mail order houses, retail only;  
(OO) Meat markets, retail only;  
(PP) Medical and other health services;  
(QQ) Motion picture theater, indoor;  
(RR) Office furniture and supplies retail;  
(SS) Paint, glass, and wallpaper retail;  
(TT) Printing and engraving services;  
(UU) Public parks;  
(VV) Parking lots;  
(WW) Radio and television broadcast studios;  
(XX) Recreation center, indoor only;  
(YY) Savings and loan associations;  
(ZZ) Shoe repair services;  
(AAA) Shoe sales, retail;  
(BBB) Sporting goods, retail;  
(CCC) Telephone and telegraph exchange stations;  
(DDD) Tires, batteries, and accessories, retail;  
(EEE) Utilities office and administrative services; and

(FFF) Cannabis dispensary (subject to § 153.225).

(Prior Code, § 3.0602)

(Ord. 451, passed 9-11-2000; Ord. 607, passed 11-15-2021)

#### § 153.102 REQUIRED OFF-STREET PARKING.

No specific requirements, except for the following uses:

(A) Community buildings owned and/or occupied by public agencies: one space for each 300 square feet of floor area; and

(B) Parking lots: parking requirements contained in § 153.223 apply.

(Prior Code, § 3.0603)

#### § 153.103 PERMITTED ACCESSORY USES AND STRUCTURES.

Accessory buildings and uses customarily incidental to the principal uses permitted in this district are also permitted, excluding outdoor storage of merchandise or machinery, or the conducting of repair services except in an enclosed building or garage.

(Prior Code, § 3.0604)

#### § 153.104 CONDITIONAL USE USES AND STRUCTURES.

Subject to the requirements contained herein, the Board of Adjustment may permit the following:

(A) Any professional or educational service not specifically listed above;

(B) Funeral homes and mortuaries on lots of 12,000 square feet or more, providing one off-street parking space for each 50 square feet of parlor area; and

(C) Electrical and gas distribution substations, and other public utility installations, but not including equipment storage or maintenance yards.

(Prior Code, § 3.0605)

#### § 153.105 MINIMUM LOT AREA, WIDTH, AND DEPTH.

None specified except as listed in § 153.104.

(Prior Code, § 3.0606)

§ 153.106 MINIMUM REQUIRED FRONT, SIDE, AND REAR YARDS.

None required, except where a Commercial District abuts a Residential or Agricultural District, a yard of 25 feet shall be provided between a permitted commercial structure and the district boundary.

(Prior Code, § 3.0607)

§ 153.107 MAXIMUM HEIGHT.

No structure may have a Building Height in excess of 35 feet .

(Prior Code, § 3.0608)

§ 153.108 PERMITTED SIGNS.

- (A) Name plate or home occupation sign not larger than one square foot in area;
- (B) Temporary sign advertising the sale or lease of the premises, not larger than eight square feet in area;
- (C) Church and public building bulletin boards not larger than 12 square feet in area;
- (D) Signs identifying the location of easements, property lines, utilities, hazards, or otherwise providing notice of restrictions on public access, not to exceed five square feet in area;
- (E) Trade or business signs relating only to the services, articles, or products offered within the building to which it is attached, providing also that:
  - (1) Signs mounted flat on the wall of a building shall not exceed 10% of the area of the wall or 100 square feet, whichever is smaller;
  - (2) Overhanging signs attached to the building shall not project above the height of the building, or more than four feet from the face of the building, and shall not be larger than 30 square feet in area; and
  - (3) Not more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.
- (F) All signs shall be maintained in a neat and presentable condition. In the event that they shall become illegible or their use shall cease, they shall be removed within 15 days or be subject to a penalty as set forth in § 153.256.

(Prior Code, § 3.0609)

## HC: HIGHWAY COMMERCIAL

### § 153.120 INTENT.

This district is intended to provide commercial area for those businesses which normally function with, and need, major highway access.

(Prior Code, § 3.0701)

### § 153.121 PRINCIPAL PERMITTED USES.

- (A) Automobile and truck sales, service, and repair;
- (B) Auto wash;
- (C) Bottled gas, and gasoline and fuel transfer and distribution;
- (D) Bus terminals;
- (E) Contract construction services;
- (F) Dwellings, as in R1, R2, or R3 Districts, may be allowed;
- (G) Farm machinery and equipment sales and services;
- (H) Feed, grain, and fertilizer sales;
- (I) Lumber yards and construction materials sales;
- (J) Plumbing and heating services;
- (K) Railroad and truck terminals, excluding stockyards;
- (L) Veterinary services and small animal hospital;
- (M) Wholesale distribution and warehousing;
- (N) Garden supplies and nurseries;
- (O) Golf driving ranges;
- (P) Marine craft and accessories;
- (Q) Manufactured/modular home sales;
- (R) Miniature golf courses;
- (S) Motels;
- (T) Public utility installations and equipment storage;

- (U) Restaurants, including drive-ins;
  - (V) Theaters, drive-in;
  - (W) Financial institutions, banks, credit unions, savings and loans, including drive-ins;  
and
  - (X) Cannabis dispensary (subject to § 153.225).
- (Prior Code, § 3.0702)
- (Ord. 444, passed 10-4-1999; Ord. 451, passed 9-11-2000; Ord. 607, passed 11-15-2021)

#### § 153.122 MINIMUM OFF-STREET PARKING REQUIREMENTS.

Parking shall be provided in the ratio of not less than one space for each 200 square feet of floor space in the building used for commercial purposes. Such parking space may be located on the same lot as the building or within 300 feet of the building, provided it does not cross a divided street or divided highway.

(Prior Code, § 3.0703)

#### § 153.123 PERMITTED ACCESSORY USES AND STRUCTURES.

- (A) Uses and structure customarily incidental to the principal uses of this district;
- (B) Storage warehouses in conjunction with permitted principal uses; and
- (C) Vehicle storage garages or lots enclosed by a five foot high opaque fence or planted screen.

(Prior Code, § 3.0704)

### I: INDUSTRIAL

#### § 153.135 INTENT.

This district is intended to provide for the future development of new industrial and certain commercial activities in areas where municipal utilities are most readily available, and in areas where ingress and egress can be provided in a safe and convenient manner. The activities located in this district should be engaged in either manufacturing, wholesale commercial trade, or commercial trade, with the majority of the trade or commerce having a market area external to the immediate city area. It is further intended that activities proposing to locate in any of the areas designated Industrial shall satisfy the Planning Commission and the Common Council that the activities conducted in the aforementioned

areas shall conform to the pollution control standards in existence for the state. No use shall be permitted that does not conform to these minimum pollution control standards.

(Prior Code, § 3.0801)

#### § 153.136 PRINCIPAL PERMITTED USES.

- (A) Terminal yard, trucking;
- (B) Wholesale distribution and warehousing;
- (C) Manufacture and/or assembly of component parts;
- (D) Food processing and packaging;
- (E) Fertilizer production or mixing;
- (F) Concrete batch plant;
- (G) Cement or clay products manufacture;
- (H) Contract construct equipment storage;
- (I) Fuel storage yard;
- (J) Machine shops;
- (K) Truck and tractor repair;
- (L) Manufactured/modular home construction; and
- (M) Beverage bottling or distribution.

(Prior Code, § 3.0802) (Ord. 451, passed 9-11-2000)

#### § 153.137 MINIMUM OFF-STREET PARKING REQUIREMENTS.

Parking shall be provided in the ratio of not less than one space for each 200 square feet of floor space in the building used for commercial purposes. Such parking space may be located on the same lot as the building, provided it does not cross a divided street or divided highway.

(Prior Code, § 3.0803)

#### § 153.138 PROHIBITED USES.

- (A) Any residential dwelling, except caretaker or watchman quarters;
- (B) Hotels, motels, manufactured homes, and manufactured home parks;

(C) Churches, schools, institutions, and other public and semi-public uses, except for trade and vocational schools;

(D) Restaurants, unless for private use of one industrial or commercial establishment and located on the same site as the establishment it serves; and

(E) Taverns.

(Prior Code, § 3.0804) (Ord. 451, passed 9-11-2000)

#### § 153.139 PERMITTED ACCESSORY USES.

(A) Uses and structures customarily incidental to the principal uses of this district;

(B) Temporary buildings for uses incidental to construction work, provided such buildings are removed promptly upon termination of construction work; and

(C) Vehicle storage garages or lots enclosed by a five-foot high opaque fence or planted screen.

(Prior Code, § 3.0805)

#### § 153.140 MINIMUM REQUIRED FRONT, SIDE, AND REAR YARDS.

For structures in this district, the minimum required front, side, and rear yard measurements are as follows:

(A) Front: 20 feet;

(B) Rear: 20 feet; and

(C) Side: ten feet.

(Prior Code, § 3.0806)

#### § 153.141 MAXIMUM HEIGHT.

No structure may have a Building Height in excess of 45 feet .

(Prior Code, § 3.0807)

### E: ENVIRONMENTAL CONSERVATION DISTRICT

#### § 153.155 INTENT.

This district is intended to provide for the retention of unique natural areas and prevent the destructive uses of such land.

(Prior Code, § 3.0901)

#### § 153.156 PRINCIPAL PERMITTED USES.

- (A) Open spaces;
- (B) Parks, both public and private;
- (C) Fish and wildlife preserves;
- (D) Recreation areas; and
- (E) Boat docks, and piers.

(Prior Code, § 3.0902)

#### § 153.157 PERMITTED ACCESSORY USES AND STRUCTURES.

- (A) Necessary utilities which support environmental conservation district activities; and
- (B) On-site signs which are necessary for the identification of Environmental Conservation District facilities and activities.

(Prior Code, § 3.0903)

#### § 153.158 PERMITTED CONDITIONAL USES.

Commercial outdoor recreation uses that coordinate with principal permitted uses, as determined by the Zoning Commission.

(Prior Code, § 3.0904)

#### § 153.159 MINIMUM REQUIRED FRONT, SIDE, AND REAR YARDS.

For structures in this district, the minimum required front, side, and rear yard measurements are as follows:

- (A) Front: 75 feet;
- (B) Side: 100 feet; and
- (C) Rear: 50 feet.

(Prior Code, § 3.0905)



§ 153.160 MAXIMUM HEIGHT.

No structure may have a building height in excess of 35 feet.

(Prior Code, § 3.0906)

M: MANUFACTURED HOME PARK

§ 153.175 INTENT.

This district is intended to provide orderly, safe, and healthful development of manufactured home parks within the city and within the area surrounding the city.

(Prior Code, § 3.1001) (Ord. 451, passed 9-11-2000)

§ 153.176 PRINCIPAL PERMITTED USES.

- (A) Manufactured home parks;
- (B) Public parks, playgrounds, or play fields;
- (C) Administrative offices; and
- (D) Convenience facilities for inhabitants.

(Prior Code, § 3.1002) (Ord. 451, passed 9-11-2000)

§ 153.177 REQUIRED OFF-STREET PARKING.

Manufactured homes must have two spaces per home.

(Prior Code, § 3.1003) (Ord. 451, passed 9-11-2000)

§ 153.178 PERMITTED ACCESSORY USES AND STRUCTURES.

- (A) Private garage containing not more than three vehicle spaces; and
- (B) Customary home occupations.

(Prior Code, § 3.1004)

#### § 153.179 CONDITIONAL USE USES AND STRUCTURES.

Subject to the requirements contained herein, the Board of Adjustment may permit the following: Electrical and gas distribution substations, and other public utility installations, provided that any building, substation, or other installation shall conform to the front and rear yard requirements for dwellings and have side yards of not less than 25 feet, but shall not include equipment storage, maintenance yards of buildings, or general administrative or sales offices.

(Prior Code, § 3.1005)

#### § 153.180 MINIMUM AREA AND WIDTH.

(A) A distance of 12 feet shall be maintained between manufactured homes in all directions. A distance of 12 feet must also be maintained from the lot line and/or the corner edge of the lot line.

(B) Manufactured homes shall be parked a minimum of five feet from the lot line at the foremost part of the manufactured home.

(Prior Code, § 3.1006) (Ord. 451, passed 9-11-2000)

#### § 153.181 ADDITIONAL REGULATIONS.

(A) The park shall comply with all licensing procedures, health, zoning, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations of the city.

(B) All utilities must be located underground to each lot.

(C) Private sewage, and electrical and water lines, must be located at each lot, including a water meter at each lot.

(D) The request for zoning designation shall specify the location and legal description of the proposed manufactured home park and a plan of the park to include property dimensions, interior roads, proposed manufactured home sites, sanitary utility lines, and other improvements.

(E) The park shall be properly landscaped, in the opinion of the Planning Commission, so as not to constitute a nuisance to other residents.

(F) Minimum land area for manufactured home parks shall be two and one-half acres.

(Prior Code, § 3.1007) (Ord. 451, passed 9-11-2000)

#### V: VACATION; RECREATION AREA

§ 153.195 INTENT.

This district is intended to provide greater flexibility for vacation or recreation types of permanent dwellings, manufactured homes or vehicles, and related commercial establishments.

(Prior Code, § 3.1101) (Ord. 451, passed 9-11-2000)

§ 153.196 PRINCIPAL PERMITTED USES.

- (A) Dwelling, single-family;
- (B) Dwellings, two-family;
- (C) Dwellings, three-family;
- (D) Dwellings, four-family;
- (E) Modular homes pursuant to § 153.224(A) through (H);
- (F) Manufactured homes pursuant to § 153.224(A) through (H);
- (G) Campgrounds; and
- (H) Vacation/recreation-related commercial establishments.

(Prior Code, § 3.1102) (Ord. 451, passed 9-11-2000)

§ 153.197 REQUIRED OFF-STREET PARKING.

Minimum space must be two spaces per dwelling or manufactured home. For commercial buildings, §§ 153.102 or 153.122 shall apply.

(Prior Code, § 3.1103)

§ 153.198 PERMITTED ACCESSORY USES AND STRUCTURES.

(A) Accessory buildings and uses customarily, and/or incidental, to the principal uses permitted in this district use also permitted:

- (1) Private garages;
- (2) Customary home occupation; and
- (3) Storage buildings.

(B) Adequate storage facilities must be provided so that outdoor storage of merchandise, machinery, equipment, or residue will not cause the area to become blighted or unsightly, nor cause a nuisance thereby.

(Prior Code, § 3.1104)

#### § 153.199 CONDITIONAL USE USES AND STRUCTURES.

Subject to the requirements contained herein, the Board of Adjustment may permit the following:

(A) Electrical and gas distribution substations, and other public utility installations, provided that any building, substation, or other installation shall conform to the front and rear requirements for dwellings and have side yards of not less than 25 feet, but shall not include equipment storage, maintenance yards or buildings, or general administrative or sales offices;

(B) Approve or reject uses not stated in this section; and

(C) Dwellings, multiple-family.

(Prior Code, § 3.1105) (Ord. 451, passed 9-11-2000)

#### § 153.200 MINIMUM AREA AND WIDTH.

(A) Manufactured homes. A distance of 12 feet shall be maintained, in all directions, between manufactured homes. Manufactured homes shall be parked a minimum of five feet from the lot line at the foremost part of the manufactured home.

(B) Dwellings and modular homes.

(1) Front: 20 feet;

(2) Side-interior lot: six feet;

(3) Side-corner lot: 20 feet; and

(4) Rear: 20 feet.

(C) Section 153.107 shall apply.

(Prior Code, § 3.1106) (Ord. 451, passed 9-11-2000)

#### § 153.201 PERMITTED SIGNS.

Section 153.108 shall apply.

(Prior Code, § 3.1107)

#### § 153.202 ADDITIONAL REGULATIONS.

(A) All structures shall comply with all licensing procedures, health, zoning, plumbing, electrical, building, fire-prevention, and all other applicable ordinances and regulations of the city;

(B) All utilities must be located underground to each lot;

(C) Private sewage, and electrical and water lines, must be located at each separate unit, including a separate water meter for each unit or lot;

(D) The request for zoning designation shall specify the location and legal description of the proposed placement of the structure or manufactured home, and a plan must be submitted to include property dimensions, interior roads, proposed manufactured, modular, or dwelling sites, sanitary utility lines, and other improvements; and

(E) Lots shall be properly landscaped, in the opinion of the Planning Commission, so as not to constitute a hazard or a nuisance to other residents.

(Prior Code, § 3.1108) (Ord. 451, passed 9-11-2000)

#### SUPPLEMENTARY DISTRICT REGULATIONS

#### § 153.215 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.

On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half and ten feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots, and a line joining points along said street lines 50 feet from the point of the intersection.

(Prior Code, § 3.1201)

#### § 153.216 FENCES, WALLS, AND HEDGES.

Notwithstanding other provisions of this chapter, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be over two and one-half feet in height.

(Prior Code, § 3.1202)

#### § 153.217 ACCESSORY BUILDINGS.

No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five feet of any other building. The maximum height for an accessory building shall be equal to the height of the principal use structure

(Prior Code, § 3.1203)

#### § 153.218 ERECTION OF MORE THAN ONE STRUCTURE ON A LOT.

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(Prior Code, § 3.1204)

#### § 153.219 EXCEPTIONS TO HEIGHT REGULATION.

The height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(Prior Code, § 3.1205)

#### § 153.220 STRUCTURES TO HAVE ACCESS.

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(Prior Code, § 3.1206)

#### § 153.221 PARKING, STORAGE, OR USE OF RECREATIONAL EQUIPMENT.

(A) For purposes of these regulations, MAJOR RECREATIONAL EQUIPMENT is defined as including boats and boat trailers, travel trailers, pick-up campers, and/or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

(B) No major recreational equipment shall be parked or stored on any lot in a residential district except in a car port or enclosed building, or behind the nearest portion of a building to a street, provided, however, that such equipment may be parked anywhere on residential premises for not to exceed 24 hours during loading or unloading.

(C) No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or any location not approved for such use.

(Prior Code, § 3.1207)

#### § 153.222 PARKING AND STORAGE OF CERTAIN VEHICLES.

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially-zoned property other than in completely enclosed buildings.

(Prior Code, § 3.1208)

#### § 153.223 PARKING LOTS.

Minimum parking lot requirements shall include vehicular access to a street or alley, and 250 square feet of parking space per vehicle.

(Prior Code, § 3.1209)

#### § 153.224 MANUFACTURED, MODULAR HOME STANDARDS.

(A) All modular and manufactured homes not located in manufactured home parks shall:

(1) Be set on a permanent foundation with frost footings, and the outside perimeter of the home shall be enclosed with a material replicating an exterior wall of a site-built home;

(2) Connect to water and sewer lines via individual services and curb stops;

(3) Conform to the same lot size(s) and yard requirements as those of single-family and modular dwellings;

(4) Provide the same off-street parking space(s) as those of single-family and modular dwellings;

(5) Be shingled with conventional roofing products;

(6) Have a main roof pitch of not less than three inches of rise for each 12 inches of horizontal run;

(7) Encase the exterior walls with conventional house siding (flat or corrugated sheet metal is prohibited);

(8) Have a minimum width of the main body of the manufactured home, as assembled on the site, of not less than 20 feet, as measured across the narrowest portion;

(9) Be placed with the long axis of the home parallel to the street;

(10) Remove the running gear and hitch;

(11) Be anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design;

(12) Meet or exceed the Federal HUD Manufactured Home Construction and Safety Standards; and

(13) Be placed or tied in accordance with the prevailing neighborhood pattern.

(B) Prior to placement of a modular or manufactured home on the foundation, the foundation and materials proposed to enclose the home perimeter must be inspected and approved by the City Administrative Official, or his or her designee.

(Prior Code, § 3.1210) (Ord. 451, passed 9-11-2000)

#### § 153.225 CANNABIS DISPENSARIES.

(A) (1) In the development and execution of these regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

(2) The city shall allow up to one cannabis dispensary, provided the time, place, and manner of said dispensaries comply with this section.

(B) A cannabis dispensary shall be located not less than 1,000 feet from a public or private school existing before the date of the cannabis dispensary application.

(C) Other location requirements are as follows:

(1) Permanent or temporary dispensaries are prohibited in all other zoning districts and not eligible for a home occupation use; and

(2) It shall be unlawful to operate a dispensary in a building which contains a residence or mixed-use building with commercial and residential uses.

(D) No cannabis establishment shall share premises with, or permit access directly from, another medical cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.



(E) Cannabis dispensaries are allowed to be open between the hours of 9:00 a.m. and 6:00 p.m. on Monday through Saturday.

(F) No cannabis dispensary shall acquire, possess, store, deliver, transfer, transport, supply, or dispense cannabis, cannabis products, or paraphernalia without providing documentation of a license from the state.

(G) The Zoning Official is authorized to issue permits (building/use) for cannabis dispensaries subject to the following:

(1) Submission of a site plan containing the following:

(a) Any information required for applicable building permit;

(b) Ingress and egress plan;

(c) Parking plan;

(d) Lighting plan (including security lighting);

(e) Screening/security fencing plan;

(f) Refuse plan;

(g) Hours of operation; and

(h) Any other information as lawfully may be required by the Zoning Official to determine compliance with this section.

(2) Documentation of ability to meet setback/separation requirements; and

(3) Documentation of state licensure.

(H) All cannabis establishments are required to be constructed in conformance with the 2021 edition of the International Building Code and International Fire Code.

(Ord. 607, passed 11-15-2021) Penalty, see § 10.99

#### § 153.225 LIMITATION ON IMPERVIOUS SURFACES

(A) The following limitations shall apply:

(1) For lots between 5,000 and 6,000 square feet in size no more than sixty five percent (65%) of the lot may be covered by Impervious Surfaces.

(2) For lots between 6,001 and 8,000 square feet in size no more than fifty five percent (55%) of the lot may be covered by Impervious Surfaces.

(3) For lots that are 8,001 square feet in size or larger no more than fifty percent (50%) of the lot may be covered by Impervious Surfaces.

(B) For all new building projects, storm water runoff from the property may not exceed the pre-developed level.

(C) The limitations on Impervious Surfaces may be excluded as to any new building project in a commercial C: Commercial, HC: Highway Commercial, or I: Industrial, zoning districts if, as part of the building permit application, a design plan addressing storm-water drainage, bearing the stamp of a professional engineer, is submitted that meets the following criteria:

(1) The plan must address peak flow volume and be designed to control excess runoff caused by impervious surfaces on the property.

(2) Wherever possible, storm water runoff shall be directed to the city's stormwater drainage system without allowing flow to exceed the pre-developed level.

(3) In the event the pre-developed runoff level cannot be maintained and would exceed the pre-developed flow into the City's stormwater drainage system, a detention pond or other method of controlling storm water runoff shall be used.

#### ADMINISTRATION AND ENFORCEMENT

#### § 153.240 ADMINISTRATION AND ENFORCEMENT.

(A) An Administrative Official designated by the Common Council shall administer and enforce this chapter. He or she may be provided with the assistance of such other persons as the Common Council may direct.

(B) (1) If the Administrative Official shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

(2) He or she shall order discontinuance of illegal use of land, buildings, or structures and the removal of illegal buildings or structures, or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done, or shall take any other action authorized by this chapter to ensure compliance with, or to prevent violation of, its provisions.

(3) Any notice required by this Chapter may be delivered by first class mail, certified mail return receipt requested, personal service, or, any other means reasonably calculated to provide the recipient actual notice. Notice is deemed delivered three days after mailing, or on the date of personal service or actual delivery by other means. In the event mailing and personal service are unsuccessful, the notice may be posted in a conspicuous place on the property that is the subject of the notice, and is deemed delivered on the date of posting.

(Prior Code, § 3.1301)

(C) The Administrative Official shall have the following duties and powers:

(1) Examine and approve any application pertaining to the use of land, buildings, or structures to determine if the application conforms with the provision of this ordinance;

(2) Issue all zoning permits and certificates and keep permanent records thereof;

(3) Conduct inspections of buildings, structures, and uses of land to determine their compliance with this ordinance;

(4) Receive, file, and forward for action all applications for appeals, variances, conditional uses, and amendments to this ordinance;

(5) Initiate, direct, and review, from time to time, a study of the provisions of this ordinance and make reports of their recommendations to the Planning Commission and the Common Council no less frequently than once a year;

(6) Maintain permanent and current records of the Zoning Ordinance including all maps, amendments, conditional uses, and variances; and

(7) Provide and maintain public information relative to all matters arising out of this ordinance.

#### § 153.241 BUILDING PERMITS REQUIRED.

No building or other structure shall be erected, moved in or out, added to, or structurally altered without a permit therefor issued by the Administrative Official. No building permit shall be issued by the Administrative Official except in conformity with the provisions of this chapter, unless he or she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this chapter. This section does not apply to agriculture or agriculturally-related structures.

(Prior Code, § 3.1302)

#### § 153.242 APPLICATION FOR BUILDING PERMIT.

(A) All applications for building permits shall be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration.

(B) The application shall include such other information as lawfully may be required by the Administrative Official, including existing or proposed building or alteration, existing or proposed uses of the building and land, the number of families, housekeeping units, or rental units the building is designed to accommodate, conditions existing on the lot, and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this section.

(C) One copy of the plans shall be returned to the applicant by the Administrative Official, after he or she shall have marked such copy either as approved or disapproved and attested to the same by his or her signature on such copy. The original copy of the plans, similarly marked, shall be retained by the Administrative Official.

(Prior Code, § 3.1303)

#### § 153.243 CERTIFICATES OF ZONING COMPLIANCE.

It shall be unlawful to use or occupy, or permit the use of occupancy, of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the Administrative Official stating that the proposed use of the building or land conforms to the requirements of this chapter.

(Prior Code, § 3.1304) Penalty, see § 10.99

#### § 153.244 EXPIRATION OF BUILDING PERMIT.

(A) If the work described in any building permit has not begun within 90 days from the date of issuance thereof, said permit shall expire, it shall be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected.

(B) If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed unless and until a new building permit has been obtained.

(Prior Code, § 3.1305)

#### § 153.245 CONSTRUCTION AND USE TO BE PROVIDED AS DEMONSTRATED.

Building permits or certificates of zoning compliance issued on the basis of plans and applications, and any other use, arrangement, or construction at variance with the authorized plan, use, arrangement, or construction shall be deemed a violation of this chapter, and punishable as provided by § 153.251 hereof.

(Prior Code, § 3.1306)

#### § 153.246 BOARD OF ADJUSTMENT; COMMON COUNCIL.

A Board of Adjustment is hereby established pursuant to SDCL § 11-4-24. The Common Council shall act as and perform all the duties and exercise the powers contained in SDCL Ch. 11-4. The Mayor shall be Chairperson of the Board of Adjustment as so composed.

(Prior Code, § 32.01)

#### § 153.247 PROCEEDINGS.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(Prior Code, § 32.02)

#### § 153.248 POWERS.

The Board of Adjustment shall have the power to:

(1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant to this chapter;

(2) Authorize upon appeal in specific cases such variance from terms of this Chapter not contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship and so that the spirit of the ordinance is observed and substantial justice done; and

(3) Hear and determine conditional uses as authorized by this Chapter. The uses shall be determined by an affirmative majority vote of the present and voting members of the Board of Adjustment.

(Prior Code, § 32.03; SDCL § 11-4-17)

#### § 153.249 APPEALS PROCESS.

(A) Any person or persons, or any board, taxpayer, department, board, or bureau of the city specifically aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision after exhaustion of the administrative appeals process in this Chapter, in the manner provided by the laws of the state and particularly by SDCL Ch. 11-4.

(B) It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, then the Planning Commission and

that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Planning Commission. Upon exhaustion of the administrative appeal process as described herein recourse shall be to the Court of competent jurisdiction as provided by law and particularly by SDCL Ch. 11-4 . Under this subchapter the Common Council acting in the capacity of the Common Council and not as the Board of Adjustment shall have only the duties:

(1) Of considering and adopting, or rejecting, proposed amendments or the repeal of this subchapter as provided by law; and

(2) Of establishing a schedule of fees and charges as stated in § 153.250.

(Prior Code, § 32.04)

#### § 153.250 FEES, CHARGES, AND EXPENSES.

The Common Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this subchapter. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the Common Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

(Prior Code, § 32.05)

#### § 153.251 PLANNING AND ZONING COMMISSION; COMMON COUNCIL

A Planning and Zoning Commission is hereby established, and pursuant SDCL § 11-4-11.1, the Common Council shall act as and perform all the duties and exercise all the powers of a planning and zoning commission in accordance with SDCL Ch. 11-4. The Mayor shall be the Chairperson of the Planning and Zoning Commission as so composed.

#### § 153.252 VARIANCE

(A) Purpose - The Board of Adjustment may vary the regulations of this ordinance in harmony with its general purpose and intent, but only in specific instances where the Board makes a finding of fact based on the standards prescribed in this Chapter Variances may be granted:

(1) To permit any yard of less dimension than those required by this ordinance;

(2) To permit any building to exceed the floor space provided by the ordinance;

(3) To permit the use of lot prohibited solely because of insufficient area of the lot;

(4) To permit construction of a building or structure which will exceed the height limit for the district in which it is to be built; and

(5) To permit off-street parking which does not conform in quantity or other particulars with the requirements of this ordinance.

(B) Application for Variance - The application for a variance shall be filed with the Administrative Official. The application shall contain the following information:

(1) Name and address of applicant;

(2) Statement that the applicant is the owner or the authorized agent of the owner of the property;

(3) Address and description of the property;

(4) An accurate site plan including the surrounding area for a distance of at least three hundred (300) feet from each boundary;

(5) Names and addresses of adjacent property owners; and

(6) The application shall be accompanied by a filing fee as established by the Common Council.

(C) Disposition by the Board of Adjustment - Within thirty (30) days of the receipt of the variance application, the Board of Adjustment shall hold at least one public hearing on the proposed request. The public hearing shall be recorded and filed with the Administrative Official. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the public hearing shall not invalidate the proceedings. The Board of Adjustment shall act on the amendment by:

(1) Approval of the variance, provided the standards of subsection (D) are met;

(2) Approval of the variance with modifications, provided the standards of subsection (D) are met;

(3) Denial of the variance; and

(4) The concurring vote of two-thirds (2/3) of the total board membership shall be necessary to approve the request.

(D) Standards - For the Board of Adjustment to make an affirmative decision it must find that each of the following are met:

(1) Denial of the variance would result in hardship to the property owner due to physical characteristics of the site;

(2) The conditions upon which an application for a variance is based are unique to the property for which the variance is being sought;

(3) The petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property;

(4) The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located;

(5) The proposed variance will not jeopardize the intent and general and specific purposes of this ordinance; and

(6) The concurring vote of two-thirds (2/3) of the total board membership shall be necessary to approve the request.

#### § 153.253 CONDITIONAL USE

(A) Purpose - The formulation and enactment of a comprehensive zoning ordinance is based on the divisions of the entire city and surrounding environs into districts in each of which are permitted specified uses that are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are other uses which it may be necessary or desirable to allow in a given district, but which because of their potential influence upon neighboring uses or public facilities, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this ordinance as "conditional uses" and fall into two categories:

(1) Uses which are either municipally operated or operated by publicly regulated utilities; and

(2) Uses entirely private in character which, because of their particular location need, the nature of the service they offer to the public, or their possible damaging influence on the neighborhood, may have to be established in a district, or districts, in which they cannot reasonably be allowed as an unrestricted permitted use under the zoning regulations.

(B) Application for Conditional Use Permit - An application for a Conditional Use Permit shall be filed with the Administrative Official. The application shall contain the following information:

(1) Name and address of applicant;

(2) Statement that the applicant is the owner or authorized agent of the owner of the property;

(3) Address and description of property;

(4) An accurate site plan including the surrounding area for a distance of at least three hundred (300) feet from each boundary;

(5) Names and addresses of adjacent property owners; and

(6) The application shall be accompanied by a filing fee, as established by the Common Council.

(C) Referral to Planning Commission - The Administrative Official shall refer the application for a Conditional Use Permit to the Planning Commission. The Planning



Commission shall hold at least one public hearing on the proposed conditional use. The public hearing shall be recorded and filed with the Administrative Official. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the hearing shall not invalidate the proceedings.

(D) Action by the Planning Commission - Within thirty (30) days of the public hearing, the Planning Commission shall act on the application for a Conditional Use Permit. The Planning Commission shall transmit in writing to the Board of Adjustment its recommendation for the disposition of the application. The Commission shall make one of the following recommendations:

(1) Approval of the Conditional Use Permit as presented by the applicant, provided the standards of subsection (F) are met;

(2) Approval with conditions, as per subsection (G); and

(3) Denial of the Conditional Use Permit.

(E) Disposition by the Board of Adjustment - Within thirty (30) days of the receipt of the Planning Commission recommendation, the Board of Adjustment shall hold at least one public hearing on the proposed conditional use. The public hearing shall be recorded and filed with the Administrative Official. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the hearing shall not invalidate the proceedings. The Board of Adjustment shall act on the Conditional Use Permit application by:

(1) Approval of the issuance of the Conditional Use Permit as presented by the applicant, provided the standards of subsection (F) are met;

(2) Approval of the issuance of the Conditional Use Permit with conditions as per subsection (G) as deemed necessary by the Board;

(3) Denial of the Conditional Use Permit; and

(4) The concurring vote of two-thirds (2/3) of the total board membership shall be necessary to approve the request.

A copy of the Conditional Use shall be supplied to the Administrative Official within ten (10) days of passage.

(F) Standards - Prior to the Planning Commission recommending approval of, or the Board of Adjustment approving the issuance of a Conditional Use Permit, each body shall determine that the proposed conditional use will meet the following standards:

(1) It will in no way endanger public health, safety, comfort, and general welfare;

(2) It will not be injurious to the enjoyment of other property in the immediate vicinity;

(3) The establishment of the conditional use will not impede the orderly development and improvement of other nearby property for the uses permitted in the district;

(4) Adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided;

(5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and traffic hazards on public streets; and

(6) It will conform to the applicable regulations of the district in which it is to be located.

(G) Conditions - The Planning Commission may recommend and the Board of Adjustment may attach certain conditions to the conditional use. The applicant must then agree to the conditions prior to the issuance of a Conditional Use Permit. These conditions may include, but are not limited to, lot sizes in excess of district minimums, screening and fencing, lighting, hours of operation, and increased parking requirements.

(H) Lapse of Conditional Use Permit - A Conditional Use Permit shall lapse and become void one year after passage by the Common Council unless the conditional use is fully established or a building permit has been issued and construction has commenced and is being pursued diligently according to the requirements of the permit. A Conditional Use Permit may be renewed for an additional period of one year by application to the approval of the Board of Adjustment.

#### § 153.254 AMENDMENTS

(A) Purpose - The purpose of this section of the ordinance is to provide a procedure for changing district boundaries, district regulations, and other textual and map provisions of this ordinance. Amendments may be initiated by the Planning Commission, Common Council, or by owners of the property proposed to be changed.

(B) Petition for Amendment - A petition for an amendment shall be filed with the Administrative Official. The petition shall contain the following information if the amendment will affect only a particular property or properties:

(1) Name and address of petitioner;

(2) Statement that the petitioner is the owner or authorized agent of the owner of the property for which the change in district boundary or use is proposed;

(3) Address and description of property;

(4) An accurate site plan including the surrounding area for a distance of at least three hundred (300) feet from each boundary;

(5) Name and address of adjacent property owners; and

(6) The application shall be accompanied by a filing fee as established by the Common Council.

(C) Referral to Planning Commission - The Administrative Official shall refer the application for amendment to the Planning Commission. The Planning Commission shall hold at least one public hearing on the proposed amendment. The public hearing shall be recorded and filed with the Administrative Official. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the public hearing shall not invalidate the proceedings.

(D) Action by the Planning Commission - Within thirty (30) days of the public hearing, the Planning Commission shall act on the proposed amendment. The Planning Commission shall transmit in writing to the Common Council its recommendation for the disposition of the application. The Commission shall make one of the following recommendations:

- (1) Approval of the amendment as presented by the applicant;
- (2) Approval of the amendment with modifications; and
- (3) Denial of the amendment.

(E) Amending Ordinance - If the action of the Planning Commission is for approval of the amendment under either Subsection (D)(1) or (D)(2), then the Planning Commission shall cause to be prepared in writing a proposed new ordinance in amendment of the Zoning Ordinance of the City of Springfield to carry out its recommendation with regard to the application for amendment. Such proposed ordinance shall be transmitted to the Common Council along with its recommendation for the disposition of the application.

(F) Disposition by the Common Council - Within thirty (30) days of the receipt of the Planning Commission recommendation, the Common Council shall hold at least one public hearing on the proposed amendment. The public hearing shall be recorded and filed with the Administrative Official. Notice of the time and place of the hearing shall be given once at least ten (10) days in advance by publication in a legal newspaper of the municipality. Due notice shall be given in writing to the applicant and owners of adjacent properties. Their failure to get the notice or attend the public hearing shall not invalidate the proceedings. The Common Council shall act on the amendment by:

- (1) Approval of the amendment, provided the standards of subsection (F) are met;
- (2) Approval of the amendment with modifications, provided the standards of subsection (G) are met;
- (3) Denial of the amendment; and
- (4) The concurring vote of at least fifty-one (51) percent of the total Council membership shall be necessary to approve the request.

(G) Standards - Prior to the Planning Commission recommending approval, or the Common Council approving an amendment, each body shall determine that the proposed amendment will meet the following standards:

(1) It will in no way endanger public health, safety, morals, comfort, and general welfare;

(2) It will not be injurious to the enjoyment of other property in the immediate vicinity; and

(3) It will not impede the orderly development and improvement of property in the city.

#### § 153.255 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Official. The Administrative Official shall record properly such complaint with the Board of Adjustment and investigate and take action thereon as provided by this Ordinance. If the Administrative Official shall find that any of the provisions of this Ordinance are being violated, they shall notify, in writing by certified mail with return receipt, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The party responsible for the violation shall respond within seven (7) working days from receipt of the letter; otherwise, they will be considered in violation and punishable under § 153.251.

#### § 153.256 PENALTIES FOR VIOLATIONS

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist, or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be subject to any or all of the following:

(1) A fine not to exceed                      dollars for each violation;

(2) Imprisonment for a period not to exceed thirty (30) days for each violation;

(3) By both fine and imprisonment; and

(4) An action for civil injunctive relief, pursuant to SDCL Ch. 21-8.

In addition, all costs and expenses involved in the case shall be paid by the defendant; each day such violation continues shall be a separate offense.

Any architect, engineer, builder, contractor, agent, or other person, who commits, participates in, assists in or maintains such violation may each be found guilty of a violation of the Ordinance and be subject to the same penalties herein provided.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the Administrative Official or a designee as determined by the Common Council may institute any appropriate action or proceedings to prevent such unlawful erection,

construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

#### § 153.257 SEPARABILITY

Should any article, section, or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.