

# ARTICLE 4. USE REGULATIONS

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- 8-1-2023, Ordinance No. 2023-26 (Secs. 4-3.3(B) and 4-1.2)

## ARTICLE 4. USE REGULATIONS

### Sec. 4-1. Table of uses.

Table 4-1-1 sets forth the uses allowed within the general use zoning districts.

#### 4-1.1. Explanation of table.

- (A) *P - Permitted uses.* A "P" in a cell indicates that a use category is allowed by right in the respective district, subject to compliance with the use-specific regulations set forth in the final column of the table. Permitted uses are subject to all other applicable regulations of this chapter, including those set forth in article 6, development and design standards.
- (B) *Reserved.*
- (C) *S - Special exception uses.* An "S" in a cell indicates that a use category is allowed only if reviewed and approved as a special exception in accordance with the review procedures for special exception permits in Article 2, Administration.
- (D) *Prohibited uses.*
  - (1) *General.* A blank cell indicates that the use type is prohibited in the district.
  - (2) *Prohibited uses.* Without limiting the generality of the foregoing, the following uses are specifically prohibited in all districts:
    - (a) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible, toxic, or explosive materials in violation of the state fire code.
    - (b) Rendering plants.
    - (c) Production of chemical, leather, rubber, or similar products.
    - (d) The display and sale of motor vehicles except for approved auto/truck/recreational vehicle sales establishments.
    - (e) The repair of more than one motor vehicle owned by a person living at a residence.
    - (f) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
    - (g) The use of a motor vehicle, trailer, or shipping container in which, out of which, or from which any goods are sold, stored, services performed, or other business conducted except pursuant to subsection 4.5.3(F).
    - (h) Freestanding self-service vending units.
- (E) *Additional regulations.* Regardless of whether a use category is permitted by right or permitted as a special exception, there may be additional regulations that are applicable to a specific use. The existence of these use-specific regulations is noted through a section reference in the last column of the table entitled "additional regulations." References refer to section 4.3, use-specific standards. These regulations apply to all districts unless otherwise specified.
- (F) *Uses not listed.* The administrator shall determine whether or not an unlisted use is part of an existing use category defined in section 4.2, use classifications, or is substantially similar to an already defined use, using the criteria in subsection 4.2.1(D)(2).

#### 4-1.2. Table of uses.

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**Table 4-1.1: Table of Uses**

Key: "P" = Permitted Use; "S" = Special Exception Use; Blank Cell = Prohibited Use

Use Category	Use Type	Zoning Districts																				Additional Regulations (Sections)	
		Residential								Nonresidential								Form Based Code <sup>2</sup>					
		RAG	R1	R2	R3	RTH	RM1	RM2	RMH	OI		C1	C2	C3	LC	M1	M2	GU	IMU	MUC	NMU		FBR
<b>Residential Uses</b>																							
Household Living	Single Family dwelling, detached	P	P	P	P		P		P	P			P		P					S	P	P	
	Single Family dwelling, attached		P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P							P <sup>4</sup>	P					P	P	P	P	4-3.1(A)
	Two Family dwelling						P	P		P			P		P				P	P	P	P	
	Multi-family dwelling < 7 units						P	P		P		P	P	P	P				P	P	P	P	
	Multi-family dwelling > 6 units							S				S	S	S					P	S	S		
	Manufactured home	P							P														
	Manufactured home park								P														4-3.1(B)
	Manufactured home subdivision								P														
	Dwelling in a commercial building									P		P	P	P	P	P	P		P	P	P		4-3.1(C)
Group Living	Family personal care home	P	P	P	P		P	P	P			P		P					P	P	P		
	Boarding house										P	P <sup>1</sup>											
	All other uses						S	S	P		P	P					P	P	P			4-4.3(D)	
Accessory Use	Residential Business	S	S	S	S	S	S	S	P		P	P	P	P				P	P	P	S	4-4.3(D)	
<b>Public and Institutional Uses</b>																							
Community Service	All Uses	S	S	S	S		S	S	S	P		P	P	P	P			P	P	P	P	S	
Day Care	Child learning center (19+ persons)	S					S	S	S	P			P					P	P	P			
	Group daycare home (7-18 persons)	S					S	S	S	P			P		P			P	P	P			
	Preschool	S					S	S	S	P		P	P	P	S			P	P	P	P		
Education	Business school								S		P	P	P				P	P					
	College or university								P		P	P					P	P	P	P			
	School, public or private	S	S	S	S		S	S	S	P		P	P				P	P	P	P			
	Trade school										P				P	P	P	P	P	P			
Government	Detention facility																P						
	Emergency response facility								P		P	P			P	P	P	P					
	Maintenance, storage, and distribution facility														P	P	P						
	Police substation										P	P	P	P	P	P	P	P	P				
	Post office								P		P	P					P						

Use Category	Use Type	Zoning Districts																				Additional Regulations (Sections)							
		Residential								Nonresidential								Form Based Code <sup>2</sup>											
		RAG	R1	R2	R3	RTH	RM1	RM2	RMH	OI		C1	C2	C3	LC	M1	M2	GU	IMU	MUC	NMU		FBR						
Health Care	Hospital									P		P																	
	Medical facility other than hospital									P		P	P	P	P					P	P	P							
Institutions	Religious institution	S	S	S	S		S	S	S	P		P	P	P	S					P	P	P	S						
	Congregate personal care home									P			P								P								
	Alternative/post incarceration facility											S							P										
	Rehabilitation facility											P	P <sup>1</sup>						P	P									
	All other uses									P		P	P							P	P								
Parks and Open Space	Cemetery, columbarium, mausoleum	S								P		P	P	P					P	P	P							4-3.2(A)	
	Community Garden	P	S	S	S	S	S	S	S	P		P	P	S	P	P			P	P	P	P	P						
	Golf course	S	S									P							P	P	P								
	Park	P	P	P	P	P	P	P	P	P		P	P	P	P				P	P	P	P	P						
Transportation Terminals	Airport/heliport/landing strip																	P	P										
	All other uses											P				P	P			P									
Utilities	Communication tower, freestanding	S								S		P	S			P	P	P	P								4-3.2(B)		
	Communication tower on existing structure									P		P	P	P	P	P	P	P	P	P	P						4-3.2(B)		
	Utility, major	S	S	S	S	S	S	S	S			P				P	P	P	P	P	P	S							
	Utility, minor	S	S	S	S	S	S	S	S			P	P			P	P	P	P	P	P	S							
<b>Commercial Uses</b>																													
Eating Establishments	Brewpub											P	P	P					P	P	P								
	Drive-in restaurant											P																	
	Restaurant with drive-through window											P	P						P	P	S								
	Restaurant with indoor and outdoor seating and/or food service areas											P	P	P	S				P	P	P								
	Restaurant with indoor seating only									S		P	P	P	S				P	P	P								
Restaurant with no seating											P	P	P					P	P	P									
Offices	All uses									P		P	P	P	S			P	P	P									
Outdoor Entertainment	All uses											P	S <sup>1</sup>						P	P									
Parking, Commercial	Parking lot									P		P	P	P				P		P	S								
	Parking structure									S		P	P	P				P	P	P	S								

Use Category	Use Type	Zoning Districts																Additional Regulations (Sections)						
		Residential								Nonresidential									Form Based Code <sup>2</sup>					
		RAG	R1	R2	R3	RTH	RM1	RM2	RMH	OI		C1	C2	C3	LC	M1	M2		GU	IMU	MUC	NMU	FBR	
Retail Sales and Service	Animal shelter and adoption service															P	P							
	Automobile parts store											P	P						P	P	P			
	Bank, financial institution, ATM									S		P	P	P	S	P			P	P	P			
	Bar, nightclub											P	P	P					P	P	P			
	Barber shop, beauty shop									P		P	P	P	P				P	P	P			
	Casino or gambling establishment											P												4-3.3(C)
	Civic club									P			P	P					P	P				
	Convenience store											P	P						P	P	S			4-3.3(A)
	Convention and exhibition facility											P						P	P					
	Event venue	S										P	P	P					P	P	P			
	Farmers' market	S										P	P	P	S				P	P	S			
	Flea market											P				P								
	Fortune telling											P												
	Funeral home, mortuary									P			P						P	P	P			
	Grocery store											P	P						P	P	P			
	Health club, spa									P		P	P	P					P	P	P			
	Indoor entertainment facility, general									S		P	P	S					P	P	P			
	Kennel, pet boarding											P	P					P	P	P				
	Landscape nursery											P				P								
	Liquor store											P	p <sup>1</sup>						P	P				
	Photography, art, dance studio or gallery									P			P	P	S				P	P	P	S		
	Personal services, all other									S		P	p <sup>1</sup>	p <sup>3</sup>	S <sup>3</sup>				p <sup>3</sup>	p <sup>3</sup>	p <sup>3</sup>			
	Pet grooming, indoor only									S			P	S						P	P			
Prefabricated building display and sales											P				P			P	S					
Retail sales and services, all other											P	p <sup>1</sup>	p <sup>3</sup>	S <sup>3</sup>	P	P		p <sup>3</sup>	p <sup>3</sup>	p <sup>3</sup>				
Retail tenant exceeding 35,000 square feet											P	S						P	P				6-6.2	
Sexually oriented business											P				P	P							4-3.3(E)	
Shopping center exceeding 50,000 square feet											P	P						P	P				6-6.2	
Tattoo and body piercing establishment											P													
Veterinary clinic or hospital									P			P							P	P				

Use Category	Use Type	Zoning Districts																			Additional Regulations (Sections)		
		Residential								Nonresidential							Form Based Code <sup>2</sup>						
		RAG	R1	R2	R3	RTH	RM1	RM2	RMH	OI		C1	C2	C3	LC	M1	M2	GU	IMU	MUC		NMU	FBR
Self-Service Storage	All Uses											P	S			P	P		P				6-6.2
Vehicle Sales and Services	Automobile rental											P	P <sup>1</sup>			P			P	S			4-3.3(F)
	Automobile sales											P	P <sup>1</sup>			P			P	S			4-3.3(F)
	Automobile repair											P	S <sup>1</sup>			P			P	S			4-3.3(A & F)
	Automobile service											P	P <sup>1</sup>						P	P	S		4-3.3(A & F)
	Automobile wash and detailing											P	P <sup>1</sup>						P	S	S		
	Boat/ recreational vehicle rental & sales												P				P			P	S		
	Taxicab service												P					P					
	Tire sales and installation												P	P <sup>1</sup>			P			P	P	P	
	Towing service																P	P					
	Truck and trailer rental and sales												P				P			P	S		
Visitor Accommodations	Campground											S											
	Hotel or motel									S		P	P	P					P	P	S		
	Recreational vehicle park											S											4-3.3(D)
	Short-term rental unit	S	S	S	S	S	S	S	S	P		P	P	P					P	P	P	S	4-3.5
<b>Service and Industrial Uses</b>																							
Agricultural Operations	Farm winery	S										S	S <sup>1</sup>			p	p				S	S	
	Riding stable/academy	P										S	P <sup>1</sup>			P	P						4-3.4(A)
	All other uses	P	S	S	S				S			S	S <sup>1</sup>			P	P						4-3.4(A)
Industrial Services	Contractor's office with on-site storage/fabrication									S		P				P	P		P	P	S		
	Truckstop or travel plaza											P				P	P						
	All other uses											P				P	P						
Manufacturing and Production	Artisan production establishment									S		P				P	P		P				
	Brewery, distillery												P	S		P			P				
	Heavy manufacturing																P						
	Light manufacturing, general											P				P	P		P				
Mining Operations	All uses															S							

Use Category	Use Type	Zoning Districts																						Additional Regulations (Sections)
		Residential								Nonresidential								Form Based Code <sup>2</sup>						
		RAG	R1	R2	R3	RTH	RM1	RM2	RMH	OI		C1	C2	C3	LC	M1	M2	GU	IMU	MUC	NMU	FBR		
Research and Development	R & D with outdoor storage															P	P						6-3.7(A)	
	R & D with no outdoor storage									P			P			P	P			P	P			
Testing Laboratory	Testing Lab with outdoor storage															P	P						6-3.7(A)	
	Testing Lab with no outdoor storage									P			P			P	P			P	P			
Warehouse and Freight Movement	Outdoor storage lot											P				P	P		P	S			6-3.7(A)	
	Truck or freight terminal											P				P	P		P					
	Warehouse															P	P							
Waste Services	Junk yard																S						6-3.7(A)	
	Recycling drop-off center															P	P	P						
	Waste disposal or treatment operation															S	S	P						
Wholesale Sales	All uses															P	P		P					

1 – These uses are not permitted in the Downtown Development Overlay District. For "Personal services, all other" and "Retail sales and services, all other", the limitation applies only to massage parlors that are not part of a "health club/spa" or "medical facility other than hospital" and tattoo establishments.

2 – Uses in the Form Based Code districts are subject to standards of the Form Based Code in Appendix A of this chapter.

3 – Massage parlors that are not part of a "health club/spa" or "medical facility other than hospital" and tattoo establishments are not permitted.

4 – Townhouses are permitted only within the Downtown Development Overlay District within these base zoning districts.



4-1.3. *Uses Permitted in PUD.* Within the PUD Planned Unit Development District, any use is permitted with council approval.

- (A) Any use permitted in the R-1 Residential District except that any public uses shall serve only the residents of the PUD District.
- (B) Two-family dwellings (duplex).
- (C) Townhouses, provided that such uses comply with the requirements for townhouses as set forth in section 4-3.1(A).
- (D) Multifamily dwellings.
- (E) Retail and service uses limited to the following: grocery, confectionery, bakery, newspaper, drug or hardware stores, barber, beauty, radio-TV repair, laundry pickup or laundromat, watch repair or shoe repair establishment, or dentist, or similar professional office, provided that:
  - (1) Only business signs are to be used. No neon or directly illuminated sign shall be used either on the exterior or in windows. All signs shall be attached flat to the face of the building;
  - (2) Off-street parking and loading requirements as indicated in section 6-1 are met;
  - (3) Retail and service uses are designed for the service and convenience of the population living within the PUD. No more than five (5) percent of the total floor space of the project shall be used for retail or service establishments.

## **Sec. 4-2. Use classifications.**

### *4-2.1. General.*

- (A) *Purpose.* Use classifications organize land uses and activities into general "use categories" and specific "use types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use classifications provide a systematic basis for assigning present and future land uses into appropriate districts. Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification.
- (B) *Structure of this section.*
  - (1) *Principal use characteristics and accessory uses.* The "characteristics" subsection describes common characteristics of each use category. Principal uses are assigned to the category that most closely describes the nature of the principal use. Also listed are examples of common accessory uses, which, unless otherwise stated in this chapter, are allowed in conjunction with a principal use and are subject to the same regulations as the principal use.
  - (2) *Examples.* The "examples" subsection lists common examples of uses included in the respective use category. The names of these sample uses are generic. They are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "wholesale sales," but sells mostly to consumers, is included in the retail sales and service category rather than the wholesale sales category. This is because the activity on the site matches the characteristics of the retail sales and service category.
- (C) *Developments with multiple principal uses.* When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore, and bakery, for example, would be classified in the retail sales and service category because all of the development's principal uses are in that category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and each use is subject to applicable regulations within that category. Developments with multiple principal uses, such as shopping centers, shall incorporate only those uses allowed in the underlying district.
- (D) *Unlisted uses.*
  - (1) *Procedure for approving unlisted uses.* Where a particular use category or use type is not specifically listed in Table 4-1-1, the administrator may permit the use category or type upon a finding that the criteria of subsection 4-2.1(D)(2) are met. The administrator shall give due consideration to the intent of this chapter concerning the districts involved, the character of the uses specifically identified, and the character of the use in question.

- (2) *Criteria for approving unlisted uses.* In order to determine that the proposed use has an impact that is similar in nature, function, and duration to the other uses allowed in a specific district, the administrator shall assess all relevant characteristics of the proposed use, including, but not limited to, the following:
  - (a) The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;
  - (b) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution;
  - (c) The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, works-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);
  - (d) The type, size and nature of buildings and structures;
  - (e) The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;
  - (f) Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other uses on the site;
  - (g) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses;
  - (h) The amount and nature of any nuisances generated on the premises, including, but not limited to, noise, smoke, odor, glare, vibration, radiation and fumes;
  - (i) Any special public utility requirements for serving the proposed use, including, but not limited to, water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
  - (j) The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the district.
- (3) *Prohibited uses.* Notwithstanding subsection 4-2.1(D)(2), all uses that are not listed in Table 4-1-1, table of uses, even given the liberal interpretation of subsection 4-2.1(D)(2), are prohibited.
- (4) *Effects of finding by the administrator.*
  - (a) *Typical uses: Added to this chapter.* In making the determination described in subsection 4-2.1(D)(1), the administrator shall initiate an amendment to this chapter if he finds that the particular use category or use type is likely to be common or to recur frequently, or that omission of specific inclusion and reference to this chapter is likely to lead to public uncertainty and confusion. Until final action has been taken on such a proposed amendment, the determination of the administrator shall be binding on all officers and departments of the city.
  - (b) *Atypical uses: Determination binding.* In making a determination whether to approve an unlisted use, the administrator's determination shall thereafter be binding on all officers and departments of the city without further action or amendment of this chapter provided the administrator finds the particular use or class of uses is of an unusual or transitory nature, or is unlikely to recur frequently.

#### 4-2.2. Residential use categories.

##### (A) Household living.

- (1) *Characteristics.* Household living is characterized by the residential occupancy of a dwelling unit by a family. Tenancy is arranged on a month-to-month or longer basis. Accessory uses commonly associated with household living are garages, storage buildings, carports, swimming pools, basketball goals, etc. Home occupations are accessory uses that are subject to additional regulations (see subsection 4-4.3(C) & (D)).
- (2) *Examples.* Examples include occupancy of single-family dwellings, duplexes, and multiple dwelling structures, retirement center apartments, family personal care homes, manufactured homes, and other structures with self-contained dwelling units.
- (3) *Exceptions.* Lodging in a dwelling unit or where units are rented on a less than monthly basis is classified in the visitor accommodations category.

(B) *Group living.*

- (1) *Characteristics.* Group living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of "household." The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Generally, group living structures have a common eating area for residents. Common accessory uses include garages, storage buildings, etc.
- (2) *Examples.* Examples include dormitories, fraternities and sororities, monasteries and convents, and boardinghouses.
- (3) *Exceptions.*
  - (a) Lodging where tenancy may be arranged for periods of less than 30 days is classified as visitor accommodations.
  - (b) Lodging where the residents meet the definition of "household" and where tenancy is arranged on a month-to-month basis or for a longer period is classified as household living.
  - (c) Most personal care homes are classified as institutions. However, personal care homes where individual units meet the definition of a "dwelling unit" in section 1-13, definitions, are classified as household living.

4-2.3. *Public and institutional use categories.*

(A) *Community service.*

- (1) *Characteristics.* The community services category includes uses of a public, nonprofit, or charitable nature providing a local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time (for instance, any senior citizen could join a senior center). The use may provide special counseling, education, or training of a public, nonprofit, or charitable nature.
- (2) *Examples.* Examples include libraries, museums, senior centers, community centers, youth club facilities, and social service facilities.
- (3) *Exceptions.*
  - (a) Civic clubs and private or commercial health clubs are classified as retail sales and service.
  - (b) Parks are classified as parks and open space.
  - (c) Uses where tenancy is arranged on a month-to-month basis or for a longer period are residential and are classified as household or group living.

(B) *Day care.*

- (1) *Characteristics.* Day care uses provide care, protection, and supervision for more than six children or adults on a regular basis away from their primary residence for less than 24 hours per day.
- (2) *Examples.* Examples include child learning centers (19+ people); group day care homes (seven to 18 people); and preschools.
- (3) *Exceptions.* Day care does not include public or private schools or facilities operated in connection with an employment use, shopping center, or other principal use where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. In-home care for six or fewer individuals is considered a home occupation (accessory use) and subject to the standards of subsection 4-4.3(C).

(C) *Educational facilities.*

- (1) *Characteristics.* This category includes public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education. This category also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks. This category also includes business or trade schools. Accessory uses at schools include play areas, cafeterias, recreational and sport facilities, auditoriums, and before-school or after-school day care.

(2) *Examples.* Examples include public and private daytime schools, boarding schools, military academies, universities, colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, and business or trade schools.

(3) *Exceptions.* Preschools are classified as day care uses.

(D) *Government facilities.*

(1) *Characteristics.* Government facilities include emergency response facilities (police, fire, and medical); detention centers; maintenance, storage, and distribution facilities; and other facilities for the operation of local, state, or federal government.

(2) *Examples.* Examples include emergency response facilities (police, fire, and medical); maintenance facilities, detention centers; and post offices.

(3) *Exceptions.*

(a) Offices and courthouses are classified as offices.

(b) Passenger terminals for airports and surface transportation are classified as transportation terminals.

(c) City, county, or state parks are classified as parks and open space.

(d) Water, wastewater, gas, electric, and other infrastructure services, whether public or private, are classified as utilities.

(e) Waste and recycling services are classified as waste-related services.

(E) *Health care facilities.*

(1) *Characteristics.* Health care facilities include uses providing medical or surgical care to patients. Hospitals offer overnight care, while other medical facilities provide outpatient care only.

(2) *Examples.* Examples include hospitals; medical centers; emergency medical care establishments; medical and dental clinics; and medical and dental labs.

(3) *Exceptions.* Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified as institutions.

(F) *Institutions.*

(1) *Characteristics.* Institutions provide a variety of facilities, including buildings that primarily provide meeting areas for religious activities; housing and care for the elderly or disabled; and housing related to treatment programs, including post-treatment recovery programs. Accessory uses include school facilities, food preparation, meeting rooms, parking, and staff residences.

(2) *Examples.* Examples include churches, temples, synagogues, and mosques; nursing, convalescent, and assisted living homes; hospices; rehabilitation centers; congregate personal care homes; some residential programs for drug and alcohol treatment; and alternative or post-incarceration facilities (halfway houses).

(3) *Exceptions.* Group home facilities or residential programs where individual units meet the definition of a dwelling unit are classified as household living.

(G) *Parks and open areas.*

(1) *Characteristics.* Parks and open areas are uses of land focusing on natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include club houses, maintenance facilities, concessions, and parking.

(2) *Examples.* Examples include parks; accesses to public water bodies; golf courses; public squares and plazas; recreational trails; greenways; botanical gardens and nature preserves; and cemeteries, columbaria, and mausoleums.

(H) *Transportation terminals.*

(1) *Characteristics.* This category includes facilities for the landing and takeoff of airplanes and helicopters, including loading and unloading areas. Aviation facilities may be improved or unimproved. This category also includes passenger terminals for bus or train service.

(2) *Examples.* Examples include airports, helicopter landing facilities, bus passenger terminals, and train depots.

(3) *Exceptions.*

- (a) Bus passenger stations for local service such as mass transit stops and park-and-ride facilities are classified as utilities.
- (b) Private helicopter landing facilities that are accessory to another use may be considered accessory uses subject to all the regulations and approval criteria for helicopter landing facilities.

(I) *Utilities.*

(1) *Characteristics.* This category includes both major utilities, which are infrastructure services providing regional or community-wide service, and minor utilities, which are infrastructure services that need to be located in or near the neighborhood where the service is provided. Communication towers also are a type of utility. Services may be publicly or privately provided.

(2) *Examples.*

- (a) Examples of major utilities include water towers, water and wastewater treatment plants, public transit park and ride facilities, and electrical substations.
- (b) Examples of minor utilities include water and sewage pump stations, stormwater retention and detention facilities, telephone exchanges, and surface transportation stops.
- (c) Examples of communication towers include facilities for transmitting wireless phone and data services, and television and radio broadcasting equipment.

(3) *Exceptions.*

- (a) Maintenance yards and buildings are classified as industrial services.
- (b) Utility offices are classified as offices.

4-2.4. *Commercial use categories.*

(A) *Eating establishments.*

(1) *Characteristics.* This category includes establishments that sell food for on-premises or off-premises consumption.

(2) *Examples.* Examples include restaurants, drive-ins, fast food establishments, yogurt or ice cream shops, and pizza delivery.

(3) *Exceptions.* Nightclubs and bars are classified as retail sales and service uses.

(B) *Office.*

(1) *Characteristics.* This category includes activities that are conducted in an office setting and that generally focus on business, government, professional, or financial services.

(2) *Examples.* Examples include business services establishments; professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses or real estate agents; data processing; sales offices; government and public utility offices; and TV and radio studios.

(3) *Exceptions.*

- (a) Offices that are part of and located with a principal use in another category are considered accessory to the firm's primary activity. Headquarter offices, when in conjunction with or adjacent to a principal use in another category, are considered part of the other category.
- (b) Contractors and others who perform services off-site are included in the office category if equipment and materials are not stored outside and fabrication, services, or similar work is not carried on at the site.
- (c) Medical and dental clinics, medical and dental labs, and blood-collection facilities are classified as health care facilities.
- (d) Check cashing establishments and day labor service agencies are classified as retail sales and service.

(C) *Outdoor entertainment.*

(1) *Characteristics.* This category includes large, generally commercial uses that provide continuous recreation or entertainment-oriented activities. They may take place in a number of structures that are arranged together in an outdoor setting.

- (2) *Examples.* Examples include golf driving ranges, miniature golf facilities, water parks, tennis facilities, ball fields, basketball courts, and stadiums.
- (3) *Exceptions.*
  - (a) Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the visitor accommodations or retail sales and service categories, respectively.
  - (b) Indoor continuous entertainment activities such as theaters, bowling alleys, game arcades, pool halls, dance halls or indoor firing ranges are classified as "indoor entertainment" under retail sales and service.

(D) *Parking, commercial.*

- (1) *Characteristics.* Commercial parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility. Accessory uses may include small structures intended to shield parking attendants from the weather.
- (2) *Examples.* Examples include short-term and long-term fee parking facilities (both lots and structures) and mixed parking facilities (partially accessory to a specific use, partially for rent to others).
- (3) *Exceptions.*
  - (a) Parking facilities that are accessory to a principal use, but that charge the public to park for occasional events nearby, are not considered commercial parking facilities.
  - (b) Parking facilities that are accessory to a principal use are not considered commercial parking uses, even if the operator leases the facility to the principal use or charges a fee to the individuals who park in the facility.
  - (c) Park-and-ride facilities are classified as utilities.
  - (d) Sales or servicing of vehicles is classified as vehicle sales and service.

(E) *Retail sales and service.*

- (1) *Characteristics.* Retail sales and service firms are involved in the sale, lease, or rent of new or used products to the general public. They may also provide personal services or entertainment or provide product repair or services for consumer and business goods. Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale and parking.
- (2) *Examples.* Examples include uses from the four following groups:
  - (a) *Sales-oriented.* Stores selling, leasing, or renting consumer, home and business goods, including art, art supplies, auto parts, bicycles, clothing, convenience items, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, landscaping products, liquor, pets, pet food, pharmaceuticals, plants, pre-fabricated buildings, printed material, stationary, videos, and food sales.
  - (b) *Personal service-oriented.* Banks, check-cashing establishments, day labor service agencies, laundromats, laundry and dry-cleaning establishments, tailors, art/photographic studios, photo services, photocopy and blueprint services, hair salons, tanning and personal care services, tattoo and body piercing establishments, martial arts schools, dance or music classes, health clubs and gyms, taxidermists, mortuaries, kennels and veterinary clinics, and animal grooming.
  - (c) *Entertainment-oriented.* Bars and nightclubs, casinos or gambling establishments, indoor continuous entertainment activities such as bowling alleys, game arcades, pool halls, indoor firing ranges, cinemas, concert halls, and theaters, sexually oriented businesses, sports and concert arenas, convention and exhibition hall, lodges, civic clubs, and event venues.
  - (d) *Repair-oriented.* Repair of household appliances, bicycles, clocks, watches, shoes, guns, canvas products, office equipment, locksmith, and upholstery.
- (3) *Exceptions.*
  - (a) Laundry and dry-cleaning plants are considered industrial services.
  - (b) Lumberyards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as wholesale sales.

- (c) Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as vehicle sales and service.
- (d) Repair and service of agricultural, industrial, business, or consumer machinery, equipment, products, or byproducts is classified as industrial services.
- (e) Stockpiling and sales of sand, gravel, mulch, stone, or other aggregate material is classified as warehouse and freight movement.

(F) *Self-service storage.*

- (1) *Characteristics.* Self-service storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.
- (2) *Accessory uses.* Accessory uses may include living quarters for a resident manager, security and leasing offices, and outside storage of recreational vehicles. Use of the storage areas for sales, service, repair, or manufacturing operations is not considered accessory to the use. The rental of trucks or equipment is also not considered accessory to the use.
- (3) *Examples.* Examples include facilities that provide individual storage areas for rent. These uses are also called "mini-warehouses."
- (4) *Exceptions.* A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is classified as warehouse and freight movement.

(G) *Vehicle sales and service.*

- (1) *Characteristics.* Vehicle sales and service uses provide direct sales of and services to passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles and golf carts.
- (2) *Examples.* Examples include rental and sales of automobiles or recreational vehicles, auto repair, auto servicing, auto wash and detail shops, car washes, transmission or muffler shops, towing services, auto upholstery shops, tire sales and mounting, taxicab services, or truck or trailer rental.
- (3) *Exceptions.* Refueling facilities for vehicles that belong to a specific use (fleet vehicles) are considered accessory uses if they are located on the site of the principal use.

(H) *Visitor accommodations.*

- (1) *Characteristics.* This category includes dwelling units arranged for short-term stays of less than 30 days for rent, lease, or interval occupancy. Accessory uses may include pools and other recreational facilities, limited storage, restaurants, bars, meeting facilities, and offices.
- (2) *Examples.* Examples include bed and breakfast inns, hotels, and motels, and short-term residential rentals.

4-2.5. *Service and industrial use categories.*

(A) *Agricultural operations.*

- (1) *Characteristics.* Agricultural operations are commercial enterprises involved in raising, harvesting, or storing of crops; feeding, breeding or managing livestock, poultry or fish; producing or storing feed for use in the production of livestock. Accessory uses may include barns, stables, silos, and other storage structures, packing sheds, corrals and paddocks.
- (2) *Examples.* Examples include crop farms, orchards, tree farms, sod farms, fisheries, and dairy farms.
- (3) *Exceptions.* Slaughterhouses and meat/game/poultry/fish processing facilities are classified as manufacturing and production.

(B) *Industrial services.*

- (1) *Characteristics.* Industrial services firms are engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or byproducts. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.
- (2) *Examples.* Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; heavy equipment sales, rental, repair, or storage; heavy truck

servicing and repair; tire retreading or recapping; truck stops; building, trades contractors with on-site storage/fabrication; printing, publishing and lithography; exterminators; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photo-finishing laboratories.

- (3) *Exceptions.* Contractors and others who perform services off-site are included in the offices category if major equipment and materials are not stored at the site and fabrication or similar work is not performed at the site. However, if major equipment and materials are stored at the site or fabrication or similar work is performed at the site, then such uses are categorized as industrial services.

(C) *Manufacturing and production.*

- (1) *Characteristics.* This category includes firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to-order for firms or consumers. Custom industry is included (i.e., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on-site, but, if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory uses may include caretaker's quarters.
  - (a) Heavy manufacturing is the manufacture or compounding process of raw materials. These activities may involve outdoor operations as part of their manufacturing process.
  - (b) Light manufacturing is the mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation, packaging, and processing of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration.

(2) *Examples.*

- (a) Examples of heavy manufacturing include processing of food and related products; weaving or production of textiles; lumber mills and other wood products manufacturing; production of clay, bone, plastic, stone, or glass materials or products; concrete batching and asphalt mixing; electric power generation plants; production or fabrication of metals or metal products, including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items and other electrical items; and production of prefabricated structures, including mobile homes.
- (b) Examples of light manufacturing include production or repair of technology products, small machines or electronic parts and equipment; woodworking and cabinet building; computer design and development; research, development, and testing facilities and laboratories; apparel and high-tech fabric and textile production; and sign making.

(3) *Exceptions.*

- (a) Manufacturing of goods to be sold primarily on-site and to the general public is classified as retail sales and service.
- (b) Manufacture and production of goods from composting organic material is classified as waste-related uses.

(D) *Mining operations.*

- (1) *Characteristics.* Mining operations involve the mechanical extraction of minerals, metals, or fossils from below the earth's surface.
- (2) *Examples.* Examples include mines for the extraction of minerals, metals, jewels, gas and oil rigs, and strip mines.
- (3) *Exceptions.* Water wells are classified as utilities

(E) *Research and Development.*

- (1) *Characteristics.* This category includes establishments engaged in conducting original investigation undertaken on a systematic basis to gain new knowledge (research) and/or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes (experimental development). Techniques may include modeling and simulation.



- (2) *Examples.* Research and development in nanotechnology; biotechnology; physical, engineering, and life sciences; and social sciences and humanities.
  - (3) *Exceptions.*
    - (a) Analytical testing services are classified as laboratory testing.
    - (b) Manufacturing of products resulting from research and development is classified as manufacturing and production.
- (F) *Testing Laboratory.*
- (1) *Characteristics.* This category includes establishments primarily engaged in performing physical, chemical, and other analytical testing services. Testing may occur in a laboratory or on-site.
  - (2) *Examples.* Examples include acoustics or vibration testing, assaying, biological testing, calibration testing, electrical and electronic testing, geotechnical testing, mechanical testing, nondestructive testing, and thermal testing.
  - (3) *Exceptions.*
    - (a) Medical testing and diagnostics establishments are classified as health care.
    - (b) Veterinary testing facilities are classified as retail sales and services.
- (G) *Warehouse and freight movement.*
- (1) *Characteristics.* This category includes firms that are involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.
  - (2) *Examples.* Examples include separate warehouses used by retail stores or other businesses; household moving and general freight storage; cold storage plants, including frozen food lockers; parcel services; and the stockpiling of sand, gravel, mulch, stone, or other aggregate materials.
  - (3) *Exceptions.* Uses that involve the transfer or storage of solid or liquid wastes are classified as waste-related uses.
- (H) *Waste-related services.*
- (1) *Characteristics.* Waste-related services includes uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This category also includes uses that receive hazardous wastes from others. Accessory uses may include recycling of materials and repackaging and transshipment of byproducts.
  - (2) *Examples.* Examples include recycling and salvage centers, land-spreading of waste, sanitary landfills, tire disposal or recycling, waste composting, recycling processing facilities, incinerators, energy recovery plants, salvage and junk yards, recycling drop-off centers, and hazardous-waste collection sites.
  - (3) *Exceptions.* Waste treatment plants are classified as utilities.
- (I) *Wholesale sales.*
- (1) *Characteristics.* Wholesale sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer.
  - (2) *Examples.* Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, and building materials.
  - (3) *Exceptions.*
    - (a) Firms that engage primarily in sales to the general public or on a membership basis are classified as retail sales and service.
    - (b) Firms that are primarily storing goods with little on-site business activity are classified as warehouse and freight movement.

## Sec. 4-3. Standards for specific uses.

### 4-3.1. Residential uses.

- (A) *Townhouse*. Within the districts permitting townhouses, the following requirements shall apply:
- (1) Minimum lot area. For fee-simple townhouses, each lot shall have a minimum area of 2,000 square feet.
  - (2) Minimum lot width. Each individual townhouse lot shall have a minimum width of 20 feet. The minimum lot width for a townhouse development is 110 feet.
  - (3) Maximum building coverage. Building coverage shall not exceed 80% of any individual townhouse lot. Maximum building coverage of an overall townhouse development is 40%.
  - (4) Minimum townhouse square footage. The minimum heated floor area for a townhouse unit shall be 1,200 square feet.
  - (5) Units per building. There shall be at least three (3) units and no more than eight (8) units per building of attached townhouse units.
  - (6) Building separation. Townhouse buildings shall be separated by a minimum of 20 feet. Architectural features, such as chimneys, eaves, sills, cornices, and corbels, may be allowed to extend up to two (2) feet into the building separation requirement.
  - (7) Building orientation. The front of a townhouse shall not face the rear of another dwelling structure within the development or on adjoining properties unless differences in terrain and elevation would provide effective visual separation.
  - (8) Common open space.
    - a. A minimum of 30 percent of the overall townhouse development land area shall be provided as common open space. The open space shall include pocket greenspaces such as parks, squares, courtyards, community gardens or similar usable common areas.
    - b. At least 60 percent of all townhouse units shall face or be located within 200 feet of a pocket greenspace.
    - c. The minimum size of an individual pocket greenspace shall be 8,000 square feet with a minimum dimension of 40 feet.
    - d. The average size of all pocket greenspace within a townhouse development shall be 1,000 square feet per townhouse unit in the development.
    - e. Surface stormwater facilities shall not be placed in a pocket greenspace.
    - f. Common open space shall be owned and maintained by a homeowners' association.
    - g. The required common open space and pocket greenspace may be reduced or waived by the Planning Commission if the townhouse development is in the Downtown Development Overlay District and is located within one-quarter ( $\frac{1}{4}$ ) mile walking distance of a public park.
  - (9) Parking.
    - a. The minimum number of parking spaces for each townhouse unit shall be two (2) primary spaces, excluding garages, plus 0.25 spaces per townhouse for guest parking. Primary parking spaces shall be located within 100 feet of the townhouse they are intended to serve. Guest parking spaces shall be located no more than 400 feet from any townhouse unit.
    - b. All townhouses shall be designed with a rear entry garage and driveway accessed via a street, alley, or private common driveway. Garages and driveways shall not be located on the front elevation or accessed from the front of the lot.
    - c. Except for tapered aprons, driveway widths shall not be expanded beyond the width of the garage face.
    - d. Parking of boats, RV's, trailers, and utility trailers shall be prohibited in a townhouse development unless an area specially designated for such parking is provided. Such parking area shall be in addition to the minimum number of parking spaces required.
  - (10) Sidewalks. ADA compliant sidewalks shall be provided within the public right-of-way on both sides of all streets in a townhouse development. Pocket greenspaces shall be accessible via ADA compliant sidewalks.
  - (11) Architectural standards.
    - a. There shall be a minimum of three different exterior elevations in a townhouse development.

- b. No more than two contiguous dwellings that form a part of a single building shall have the same setback or roof line. Said setback and roof line shall be varied by a minimum of two (2) feet.
- c. Required exterior building materials shall be brick, stone, and/or natural wood or fiber cement siding. Split-faced concrete block, stucco, or granite block may be used on no more than 20 percent of any elevation.
- d. Material or color changes should occur at a change of plane.
- e. Private, usable open space, such as balconies, decks, patios, etc., shall be provided contiguous to each dwelling unit. The area of such open space provided for each unit shall not be less than ten (10) percent of the floor area of the unit served. The location and number of square feet shall be clearly indicated on the site plan. Private open space shall not count toward the required common open space.
- f. Windows shall be provided on the side elevation of end units in a townhouse building.

(B) *Manufactured home park.* In any district where manufactured home parks are permitted, the applicant shall submit a lay-out of the park subject to the following conditions:

- (1) The following minimum standards shall apply to each manufactured home space or stand:
  - (a) Minimum size: Four thousand (4,000) feet.
  - (b) Minimum width of space: Forty (40) feet.
  - (c) Minimum depth of space: Eighty (80) feet.
  - (d) Minimum side yard required: Ten (10) feet.
  - (e) Minimum front yard: Fifteen (15) feet.
  - (f) Minimum rear yard: Ten (10) feet.
  - (g) Minimum lot area per park: Five (5) acres.
  - (h) Minimum lot width for portion used for entrance and exit shall be fifty (50) feet.
  - (i) No manufactured home shall be located closer than thirty-five (35) feet to the centerline of any roadway within the park.
- (2) The minimum number of spaces completed and ready for occupancy before the first occupancy is permitted shall be ten (10) spaces.
- (3) No manufactured home shall be admitted to any park unless it can be demonstrated that it meets the requirements of any additional laws and ordinances of the Council.
- (4) Convenience establishments of a commercial nature, including stores, laundry and dry cleaning agencies, and beauty shops and barber shops may be permitted in mobile home parks provided that such establishments and the parking areas primarily related to their operations:
  - (a) Shall not occupy more than ten (10) percent of the area of the park;
  - (b) Shall be subordinate to the residential use and character of the park;
  - (c) Shall be located, designed and intended to serve frequent trade or service needs of persons residing in the park;
  - (d) Shall present no visible evidence to their commercial character from any portion of any residential district outside the park.
  - (e) In addition to meeting the above requirements the mobile home park site plan shall be accompanied by a certificate of approval from the Houston County Health Department.

(C) *Dwelling in commercial building.*

- (1) In the C-3, Central Business District, dwellings shall not be established on the ground level of a building originally designed for commercial use.
- (2) In all districts, establishing a dwelling in a commercial building shall comply with all applicable local and state codes.

4-3.2. *Public and institutional uses.*

(A) *Cemetery.* Within the districts permitting cemeteries, the following requirements shall apply:

- (1) The site proposed for a cemetery shall not interfere with the development of a system of collector or large streets in the vicinity of such a site. In addition such site shall have direct access to a thoroughfare.
- (2) Any new cemetery shall be located on a site containing not less than twenty (20) acres.
- (3) All structures shall be set back no less than twenty-five (25) feet from any property line or street right-of-way line.
- (4) All graves or burial lots shall be set back not less than twenty-five (25) feet from any property line or minor street right-of-way lines, and not less than fifty (50) feet from any collector, arterial, expressway, or freeway right-of-way lines.
- (5) The entire cemetery property shall be landscaped and maintained.

(B) *Communication tower, freestanding or structure-mounted.*

(1) *General requirements.* All towers shall comply with the following general requirements:

- (a) *Removal of abandoned facilities.* A tower that has not been operated for a continuous period of one year shall be considered abandoned. The city may require an abandoned tower to be removed. The owner of such tower shall remove the tower within 30 days of receipt of written notice from the city. If the tower is not removed within 30 days, the city may remove it at the owner's expense and any permit for the tower shall be deemed to have expired.

(2) *Freestanding communication towers.*

- (a) *Design.* Any freestanding communication towers, associated facilities and any wireless facilities installed upon other structures in the rights-of-way and associated facilities shall be subject to terms and conditions that minimize the impact upon private and public property (including, where applicable, the public right-of-way), ensure consistency with the surrounding area and employ concealment elements appropriate to the location being proposed.
- (b) *Setbacks.* All freestanding towers shall be located at least 50 feet from a residential zoning district or the property line of a lot containing a residential use.
- (c) *Co-location.* All freestanding towers shall be designed and constructed to permit the facility to accommodate the attachment of at least two additional providers on the same facility. No telecommunication operator shall exclude a competitor from using the same facility or location. A special exception shall not be required for co-location on existing towers which were originally approved as a special exception or on other structures, and which do not increase the height of the existing tower or structure.
- (d) *Public right-of-way.* No freestanding communication tower or any associated facilities shall be erected within the public right-of-way, nor shall wireless equipment or associated facilities be placed on other existing structures within the rights of way, including but not limited to light poles, utility poles, or traffic lights unless permitted by site license pursuant to a franchise or other written consent issued by the city authorizing the occupancy of the public right-of-way to install and operate wireless facilities. In no event shall a freestanding communications tower in excess of the average height of existing utility distribution structures on the public right-of-way in the immediate area be permitted within the public right-of-way unless a showing can be made that this provision would prohibit or have the effect of prohibiting the provision of personal wireless services within the meaning of 47 U.S.C. § 332(c)(7), as interpreted by binding precedent of the United States Court of Appeals for the Fourth Circuit.
- (e) *Availability of other suitable locations.* In addition to the previous subsection pertaining to the public right-of-way, new towers shall not be permitted unless the applicant demonstrates that no existing freestanding communication tower or other structure can accommodate the applicant's needs. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's needs shall be signed by a registered engineer and shall demonstrate at least one of the following:
  - (i) No existing communication towers or structures at a suitable height are located within the geographic area required to meet the applicant's engineering requirements;
  - (ii) Existing freestanding communication towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;

- (iii) The applicant's proposed antenna would cause electromagnetic interference with the antennae on the existing towers or structures, or the antennae on the existing towers or structures would cause interference with the applicant's proposed antenna; or
  - (iv) The applicant demonstrates that there are other limiting factors that render existing towers and structures unusable.
- (3) *Roof-mounted communication tower.*
- (a) *Location.* A proposed structure-mounted communication tower may be permitted as an accessory or secondary use in any district. In the C-3 district, towers may be permitted only on structures at least 50 feet in height.
  - (b) *Height.* A structure-mounted tower shall not exceed 10 feet in height.

4-3.3. *Commercial uses.*

(A) *Automobile service station.* Within the districts permitting automobile service stations, the following requirements shall apply:

- (1) *Location.* The property on which an automobile service station is located shall not be one hundred (100) feet of any residential district, or any property containing a school, public playground, church, hospital, public library, institution for children or dependents.
- (2) *Site requirements.* An automobile service station shall have a minimum frontage on the primary street of one hundred twenty (120) feet and a minimum area of twelve thousand (12,000) square feet. All buildings shall be set back forty (40) feet from all street right-of-way lines and all canopies shall be set back fifteen (15) feet from all street right-of-way lines.
- (3) *Access to site.* Vehicular entrances or exits at an automobile service station:
  - (a) Shall not be provided with more than two (2) curb cuts for the first one hundred twenty (120) feet of street frontage or fraction thereof.
  - (b) Shall contain an access width along the curb line of the street of not more than forty (40) feet as measured parallel to the street at its narrowest point and shall not be located closer than twenty (20) feet to a street intersection or closer than ten (10) feet to the adjoining property.
  - (c) Shall not have any two (2) driveways, or curb cuts, any closer than twenty (20) feet at both the right-of-way line and the curb or edge of the pavement along a single street.
- (4) *Gasoline pump island.* All gasoline pump islands shall be setback at least fifteen (15) feet from the right-of-way line, or where a future widening line has been established, the setback line shall be measured from such line; and where pump islands are constructed perpendicular to the right-of-way line, the pump island shall be located not less than thirty (30) feet back of the right-of-way line; however, the pumps shall be at least sixty (60) feet from the centerline of an arterial street, fifty-five (55) feet from the centerline of a collector street and forty-five (45) feet from the centerline of other streets.
- (5) *Off-street parking.* A minimum of two (2) off-street parking spaces required with an additional off-street parking space for each lubrication and wash bay.
- (6) *Other site improvements.* In addition to the above requirements, the following additional site improvements shall be adhered to:
  - (a) A raised curb of at least six (6) inches in height shall be erected along the street property lines, except for driveway openings.
  - (b) A solid fence or wall six (6) feet in height shall be erected along all adjacent property lines facing any adjacent residential lot.
  - (c) Exterior lighting shall be arranged so that it is deflected away from adjacent properties.
  - (d) Signs, whether permanent or temporary, shall not be placed within the public right-of-way and shall not obstruct visibility for drivers or pedestrians.

- (e) All drivers, parking, storage, and service areas shall be paved and curbed and a good stand of grass shall be maintained on the remainder of the lot.
- (7) *Storage of flammable products.* Outside aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gasses shall be prohibited at any automobile service station in all zoning districts.
- (8) *Signs.* The following regulations shall apply to automobile service station signs:
- (a) All requirements of Section 106 shall apply unless noted in Section 105.8.2 below.
  - (b) All types of signs shall be permitted under the gas pump island canopy provided they do not constitute a public nuisance or safety hazard. For gas pump island canopies attached to the main building, the above signs are allowed to a point midway between the gas pumps and the main building wall. These signs do not count against the sign area requirements listed in Section 6-7.
- (B) *Reserved.*
- (C) *Casino or gambling establishment.* Such uses shall be allowed only when allowed by the general law of the state. When allowed, the property line of any such use shall be at least 500 feet from the property line of any residential district, residential use, historic overlay district, building on the National Register of Historic Places, park, religious institution, or school.
- (D) *Recreational vehicle park.* This use is intended to provide commercial rental parking spaces and sites for recreational vehicles (RVs), including motor homes, travel trailers, pick-up campers and tent trailers; to provide goods and services customarily needed by occupants of the park; and to assure reasonable standards for the development of facilities for the occupancy of recreational vehicles on a temporary basis, ranging from short overnight stops to longer destination-type stays of several days to weeks. All recreational vehicle (RV) parks within the City of Perry shall be governed by the following regulations:
1. *Minimum Area for Recreational Vehicle (RV) Parks and rental spaces.*
    - a. *Minimum Park Area.* The minimum size of an RV park shall be three (3) acres.
    - b. *Rental Space Size.* Minimum rental space size for those spaces having utility hookups shall be one thousand five hundred (1,500) square feet. Minimum rental space size for those spaces not having hookups shall be nine hundred (900) square feet. Minimum rental space size shall not include any area required for access roads, off-street parking, service buildings, recreation areas, office and similar RV park needs.
    - c. *Rental Pads.* A minimum of eighty percent (80%) of all spaces shall be equipped with a surfaced area of not less than ten (10) feet by forty (40) feet, containing hookups for water, sewer and electricity. Surfacing shall consist of gravel, asphalt or concrete. Where gravel surfacing is used, the design of the gravel pad shall be approved by the administrator to maintain proper drainage and minimize dust. Where provided, each RV unit shall be parked entirely on the surfaced area so that no part thereof obstructs any roadway or walkway within the RV park. Those spaces not equipped with such a surfaced area, intended for occupancy by recreational vehicles not having self-contained toilet, lavatory or bathing facilities, shall be equipped with a gravel pad, the design of which shall be approved by the administrator, of not less than ten (10) feet by twenty-five (25) feet for RV unit parking and a hookup for water. Spaces equipped with such a gravel pad shall not exceed twenty percent (20%) of the total number of spaces in the RV park.
  2. *Setback Requirements.* Each rental space shall meet the following setback requirements:
    - a. Fifty (50) feet when abutting a State or Federal highway or designated major arterial;
    - b. Twenty-five (25) feet when abutting a public right-of-way other than a above;
    - c. Twenty-five (25) feet when abutting any property line other than a or b above;
    - d. There shall be a minimum distance of ten (10) feet provided between RV units parked side by side;
    - e. There shall be a minimum distance of ten (10) feet between RV units parked end to end;
    - f. There shall be a minimum distance of twenty (20) feet between any RV space and any building.
  3. *Streets.* Streets or roadways and parking areas within the RV park shall be designed to provide safe and convenient access to all spaces and to facilities for common use by park occupants, and shall be constructed and maintained to allow free movement of emergency and service vehicles at all times, and

shall be graded to drain and surfaced with asphalt or concrete, the design of which shall be approved by the administrator, to maintain proper drainage. All interior roadways shall be at least twenty-three (23) feet in width for two-way traffic, and at least twelve (12) feet in width for one-way traffic. A forty-five (45) foot turning radius shall be required on all curves, to allow access by emergency vehicles. Any bridges within the development shall have a capacity of at least sixteen (16) tons, to allow access by emergency vehicles. Road grades shall not exceed six (6) percent. Access into the park from a public street shall meet the same design standards as those of the public street, for a distance of forty (40) feet from the property line into the development. All roadways and walkways within the park shall be adequately lighted at night, to provide safe access.

4. *Frontage.* All rental spaces shall have a minimum frontage of twenty (20) feet along an interior roadway.
5. *Sanitary facilities.* Every RV park shall be provided with one or more service buildings equipped with flush toilets, lavatories, showers and laundry facilities meeting minimum state Health Department standards.
6. *Sanitary disposal stations.* Every RV park shall contain at least one sanitary disposal station for the sole purpose of removing and disposing of wastes from holding tanks in a clean, efficient and convenient manner.
  - a. Each sanitary station shall consist of a drainage basin constructed of impervious material, containing a disposal hatch and self-closing cover, and related washing facilities.
  - b. The disposal hatch of sanitary station units shall be connected to the sewage disposal system. Related facilities required to wash holding tanks and the general area of the sanitary station shall be connected to the RV park water supply system.
  - c. Each sanitary station shall have a sign posted stating "Danger—Not to be used for drinking or domestic purposes."
  - d. Sanitary stations shall be approved by the county health department.
7. *Utilities.* All utilities shall be placed underground.
  - a. *Water supply.* Every RV park shall connect to a public water system. Each rental space equipped with sewer and electrical hookups shall also be equipped with two water outlets, to provide connection for the RV and a garden hose. All other rental spaces shall be equipped with one water outlet. Water supply shall be installed in compliance with City of Perry specifications. Fire hydrants shall meet minimum standards adopted by the City of Perry.
  - b. *Sanitary sewer.* A minimum of eighty percent (80%) of all rental spaces shall be equipped with a hookup to a public sewage system and installed in compliance with City of Perry specifications.
  - c. *Electricity.* A minimum of eighty percent (80%) of all rental spaces shall be equipped with an electrical outlet supplying at least 110 volts, or 110/220 volts, installed in accordance with applicable state electrical codes.
8. *Refuse disposal.* The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents or other nuisance conditions. All refuse shall be stored in durable, washable and nonabsorbent metal or plastic containers with tight-fitting lids. Such containers shall be provided at the rate of at least one thirty (30) gallon container, secured in a rack or holder, for each rental space, or an equivalent storage capacity in centralized storage facilities. Adequate refuse collection and removal shall be the responsibility of the park owner.
9. *Landscaping.* Landscaping, screening and buffering shall comply with the provisions of Section 6-3 and 6-4 of this chapter. In addition to buildings located on the site, rental pads shall be removed from the overall site area for the calculation of tree unit density. Rental pads shall not count toward interior parking lot landscaping.
10. *Open space.* Open space for common areas, playgrounds and other recreational uses shall be provided at the rate of at least ten percent (10%) of the gross area of the RV park, and shall be of sufficient size and distribution as to be a functional part of the entire development plan. Open space shall not include any area designated as a roadway, RV rental space, storage area, swimming pool, yard area surrounding the caretakers or manager's residence, or any area required for setbacks as set forth in Subsection (D)(2) of these regulations.
11. *Structural Additions.* Temporary structures such as pre-manufactured, portable canvas awnings, screened enclosures, or platforms, which are normal camping equipment, may be erected but must be

removed when the rental space is vacated. No permanent or other structural additions shall be built onto or become a part of any RV.

12. *Storage Sheds.* No storage sheds shall be allowed within an RV rental space.
13. *Fires.* Fires shall be made only in stoves and other equipment intended for such purposes and placed in safe and convenient locations, where they will not constitute fire hazards to vegetation, undergrowth, trees and RVs. No open fires are allowed.
14. *Tents.* Tents for sleeping shall be permitted, and their number shall be limited to one tent per rental space. Areas for group tent camping may be established, with the following provisions:
  - a. The area set aside for such group use is not a part of any designated open space;
  - b. An adequate number of parking spaces is provided;
  - c. The area is served by one or more water outlets; and
  - d. The area is located no further than three hundred (300) feet from a service building.
15. *Registration of Occupants.* It shall be the responsibility of the owner or manager of the RV park to keep a current record of the names and addresses of the owners and/or occupants of each RV space, the make, model, year and license number of each RV and motor vehicle by which it is towed, the state, territory or country issuing such licenses, and the arrival and departure dates of each occupant. This record must be made available for inspection to all appropriate agencies whose duties necessitate acquisition.
16. *Additional Standards for Special Exception.* In addition to the standards for granting a special exception, the applicant requesting special exception for an RV park shall demonstrate conformance with, and the Planning Commission and the City Council shall find:
  - a. That the site is in conformance with sound planning principles and the land use plan for that area, as set forth in the comprehensive plan;
  - b. That the site has an acceptable relationship to the major thoroughfare plan of the City, and is accessible to recreational vehicles without causing disruption to residential areas; and
  - c. That the proposed recreational vehicle park will not overload utility and drainage facilities.

(E) *Sexually oriented business.*

(1) *Location.*

(a) No sexually oriented business shall be operated within 1,000 feet of:

1. A religious institution;
2. A day care center or other school;
3. A boundary of a residential district;
4. A property line of a lot containing a structure having a residential use;
5. A public park or recreation area;
6. A public building; or
7. A youth activity center.

(b) There shall be no establishment, substantial enlargement, or transfer of ownership or operation of a sexually oriented business within 1,000 feet of another sexually oriented business.

- (2) *Measurement of distance.* Distances provided in subsection E(1) above shall be measured in a straight line, without regard to intervening structures, from the structure of the sexually oriented business to the nearest property line of the premises containing another sexually oriented business, a religious institution, day care center or school, a public park or recreation area, a public building, a youth activity center, a boundary of a residential district, or a lot containing a structure having a residential use.
- (3) *Purpose; findings and rationale.* The city's purpose, findings, and rationale for regulating the location of sexually oriented businesses is set forth in section 15-141 of the Perry City Code and the city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

(F) *Vehicle sales and services.* All such uses shall comply with the following standards:



- (1) Vehicles, parts, or equipment shall not be stored, parked or displayed in any landscape area (except as provided in section 4-3.3(F)(3)(b), the right-of-way, or in a location which obstructs visibility in sight triangles for streets and driveways.
- (2) All vehicles not displayed for sale or lease, automobile parts, discarded parts, and similar materials shall be stored within an enclosed building or within an outdoor storage area which complies with screening requirements in subsection 19-6.2.5, additional screening requirements.
- (3) Automobile sales and rental, boat/recreational vehicle sales and rental. Automobile sales and rental uses and boat/recreational vehicle sales and rental uses shall be subject to the following standards:
  - (a) *Minimum site size.* Automobile sales or rental uses and boat/recreational vehicle sales and rental uses shall be located on a site at least one acre in area dedicated solely to such use.
  - (b) *Vehicle display/storage areas.* Vehicle display/storage areas shall be subject to the following standards:
    1. A vehicle display/storage area shall not be located within a required setback, required landscaping area, or required parking space.
    2. Vehicle display devices shall not be elevated more than two feet above grade.
    3. Areas used for display or storage of vehicles shall be surfaced with concrete, asphalt concrete, or approved pervious paving surfaces approved by the administrator, except that up to ten (10) vehicles may be displayed on turf located on the premises of the authorized automobile sales use. Gravel is not an acceptable paving surface for display or storage of vehicles. All surfaces shall be maintained in sound condition free of pot holes, weeds and other vegetation, dust, trash, and debris.
    4. Display vehicles shall be arranged in an orderly fashion and provide reasonable room for pedestrian and vehicular maneuvering.
    5. No vehicles shall be displayed on top of a building.
    6. Junked or salvage vehicles are prohibited. All motor vehicles for sale shall be maintained in running condition.
  - (c) *Service areas.* Vehicle service areas shall take place entirely within an enclosed building. Service bay or garage doors that face a public right-of-way shall be recessed at least 15 feet beyond the main facade of the building. Service bay and garage doors shall not face residential districts.
  - (d) *Outdoor storage.* Outdoor storage of materials, supplies, and equipment may be allowed only within an area screened in accordance with section 6-3-7, additional screening requirements. Outdoor storage lots may contain a gravel surface, provided it is maintained free of potholes, weeds and other vegetation, dust, trash, and debris.

4-3.4. *Service and industrial uses.*

- (A) *Agricultural operations, all other.* Agriculture, forestry, livestock and poultry production operations shall be conducted on parcels of at least ten acres in area. Structures containing poultry or livestock and storage of manure or other odor- or dust-producing substances shall be located at least 200 feet from a property line. All animals shall be contained within a structure or corral and are limited in density as follows:

<b>Table 4-3-1: Animal Density</b>	
Type of Animal	Maximum Density
Horse, cow, pig, or any combination thereof	1 per 1 acre
Goat, sheep, or any combination thereof	1 per ½ acre
Fowl, rabbit, or any combination thereof	10 per ½ acre

- (B) *Contractor's office with on-site storage/fabrication.*

- (1) Areas of a site used for outdoor storage of materials, equipment, and vehicles shall not be located within required building setbacks.

- (2) When located in an OI, MUC, or NMU zoning district, areas of a site used for outdoor storage of materials, equipment, and vehicles shall be screened in accordance with the provisions of Sec. 6-3.7.
- (3) When located in an OI or NMU zoning district, contractor's office with on-site storage/fabrication shall be located on a parcel of land with a minimum area of five acres.
- (4) When located in an OI or NMU zoning district, all fabrication shall be conducted within an enclosed building.

4-3.5. *Short-term rental.* The standards in this subsection are required for all short-term rental properties

(A) *Definitions.* As used in this subsection, the following definitions apply:

*Advertise* means the act of drawing the public's attention to a short-term rental in order to promote the availability of the residence for use as a short-term rental. Said advertising may be found in any medium, including but not limited to, newspaper, magazine, brochure, website, or mobile application.

*Bedroom* means the living area(s) of the dwelling unit that is designed and furnished for sleeping and which has proper egress as required by the International Residential Code.

*Occupant* means any individual person living, sleeping, or possessing a building, or portion thereof. A person is not required to pay rent, provide in-kind services, or be named in any lease, contract, or other legal document to be considered an occupant.

*Premises* means property, a lot, plot, or parcel of land, including any structures or portions of structures thereon.

*Responsible person* means the signatory of an agreement for the rental, use and occupancy of a short-term rental unit, who shall be an occupant of that short-term rental unit, who is at least twenty-one years of age, and who is legally responsible for ensuring that all occupants of the short-term rental unit and/or their guests or visitors comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental unit.

- (B) *Short-term rental permit required.* An annual short-term rental permit or renewal permit is required pursuant to Sec. 2-3.6.
- (C) *Designation of local contact person required.* The owner shall designate the name and contact information of a local contact person who can be contacted regarding immediate concerns and complaints from the public. Said individual must be available to be reached in person or by phone at all times while occupants are on the premises of a short-term rental. If called, a local contact person must be able to and shall be present at the premises within one hour of a call from administrator, or his designee. A local contact person must be authorized to make decisions regarding the premises and its occupants. A local contact person may be required to, and shall not refuse to, accept service of citation for any violations on the premises. Acceptance of service shall not act to release the owner of any liability under this chapter.
- (D) *Proof of insurance required.* The owner shall provide documentation of host protection or other commercial general liability insurance commensurate with the operations of the short-term rental that provides coverage of \$1 million per occurrence. Such coverage shall indicate that the property is being used as a short-term rental. A certificate of insurance must be on file with the administrator. Proof of insurance shall be required at the time of application and notice of cancelation of insurance must be provided to the administrator within 30 days.
- (E) *Hotel occupancy taxes; Request for occupancy history.* The owner shall remit all hotel occupancy taxes required under State law and Chapter 15 of the Code of the City of Perry. Upon request of the administrator or the City of Perry Finance Director, the owner of the premises used as a short-term rental shall remit, within 30 days, an accounting of all occupants who rented the premises and the hotel occupancy taxes paid therefor. It shall be unlawful for a person to fail to provide said information requested in a timely manner.
- (F) *Occupational tax certificate required.* The owner shall obtain and maintain a City of Perry occupational tax certificate for the period(s) covered under the short-term rental permit or renewal permit.

- (G) *Separation of short-term rentals.* Within residentially zoned districts, a short-term rental shall not be located within 1,000 feet of a permitted short-term rental, measured from property line of the permitted short-term rental to the property line of a proposed short-term rental.
- (H) *Short-term rentals per premises.* Within residentially zoned districts, no more than one short-term rental shall be permitted per premises.
- (I) *Restrictions on the number of occupants.* The owner or local contact person shall not rent, allow, provide, or advertise for more than two (2) persons per bedroom, plus two (2) additional persons, when using the premises as a short-term rental unit. Regardless of the number of bedrooms on the premises, it shall be unlawful for more than ten persons, including children, to occupy a short-term rental unit at any one time, or to exceed the maximum occupancy shown on the short-term rental permit. A visual inspection by a city employee of more than ten persons at the premises is prima facie evidence of and shall be probable cause to issue a citation for a violation of this section.
- (J) *Parking restrictions.* The maximum number of motor vehicles allowed at a short-term rental unit shall be limited to the number of available off-street parking spaces. It shall be unlawful for an owner to permit, allow or advise occupants to park more vehicles on the premises than the available off-street parking spaces, or to suffer or permit parking of vehicles on an unapproved surface. It shall be unlawful for an occupant of a short-term rental unit to park a motor vehicle on a residential street near a short-term rental. It shall be unlawful for an occupant of a short-term rental unit, or an owner thereof to allow an occupant, to park or occupy a motor home, recreational vehicle, boat, utility trailer, or commercial vehicle on the premises of a short-term rental unit.
- (K) *Minimum stay required.* An owner or person shall not rent or lease a short-term rental unit for a period of less than 24 hours.
- (L) *Physical conversion of premises prohibited.* Within residentially zoned districts, the owner shall not convert a garage to living space, remodel, renovate, enlarge, or otherwise modify premises to add additional bedrooms for use as a short-term rental. It shall be unlawful for an owner or person to pave or otherwise cover pervious soil to create additional on-premises parking without prior approval from the administrator.
- (M) *Noise restrictions.* It shall be unlawful to allow or make noise or sound that exceeds the limits set forth in the City's noise ordinance, §17-55.
- (N) *On-premises curfew requirements.* The owner shall not allow the congregation of occupants outside on the premises between the hours of 10:00 p.m. and 9:00 a.m.
- (O) *Trash pickup requirements.* The owner or occupant shall not allow trash and refuse to accumulate in an unsanitary manner. If the owner does not remove trash and refuse from the premises after each individual occupancy, the owner or occupant shall place all residential solid waste curbside for collection and disposal by the city, or its authorized representative, no later than 6:00 a.m. on the day of collection and no earlier than 3:00 p.m. on the day before the scheduled collection day. The mobile toter shall be removed from curbside no later than 8:00 a.m. on the day after collection.
- (P) *Advertising, promoting, or allowing of special events prohibited.* An owner or occupant shall not advertise or promote a special event or allow the advertising and promotion of a special event (e.g., banquet, wedding, reception, reunion, bachelor or bachelorette party, concert, or any similar activity that would assemble large numbers of invitees) to be held on the premises (i.e., utilize the premises as an 'event venue' or 'convention center' as defined in this chapter).
- (Q) *Notice to occupants of short-term rentals.* An owner or person operating a short-term rental shall provide a notice of instructions (also known as "host rules") to occupants staying at the premises in a form developed by the administrator. The notice shall instruct the occupants as to all applicable city regulations pertaining to short-term rentals. These include, but are not limited to, occupancy restrictions, limits on parking, trash pickup, prohibitions on special events, limits on noise, and curfew times.
- (R) *Written rental agreement required.* The owner shall require a written rental agreement with a responsible person for the short-term rental unit which shall contain the following provisions:

- a. the responsible person's agreement to abide by all of the requirements of this chapter, any other applicable city ordinances, state and federal law and acknowledge that his or her rights under the agreement may not be transferred or assigned to anyone else;
  - b. the responsible person's acknowledgement that it shall be unlawful to make any noise or sound that exceeds the limits set forth in the city's noise ordinance; and
  - c. the responsible person's acknowledgement and agreement that violation of the agreement or this chapter may result in immediate termination of the agreement and eviction from the short-term rental unit by the owner or local contact person, as well as the potential liability for payments of fines levied by the city.
- (S) *Permit to be displayed.* A copy of the approved short-term rental permit shall be posted at a conspicuous location inside the front entrance(s) to the short-term rental unit.
- (T) *Use of assigned permit number required.* An owner or person shall not advertise a short-term rental unit in any medium without including the current permit number assigned by the administrator.
- (U) *Use of unauthorized permit number prohibited.* An owner or person shall not use, advertise, or promote or allow the use, advertisement or promotion of a short-term rental using a permit number not assigned to the owner or person, or to a different address, or to a different dwelling unit.

## **Sec. 4-4. Accessory uses and structures.**

4-4.1. *Purpose.* This section authorizes the establishment of accessory uses and structures that are incidental, customarily associated with, and subordinate to principal uses. The city's intent is to allow a broad range of accessory uses provided such uses are located on the same lot as the principal use and comply with the performance criteria set forth in this section.

4-4.2. *General development and operational standards.*

- (A) *Compliance with ordinance requirements.* All accessory uses, structures, and activities shall be subject to the applicable general, dimensional, operational, and use-specific regulations set forth in this chapter, including the regulations that apply to the associated principal use. In case of any conflict between the accessory use/structure standards of this section and any other requirement of this chapter, the standards of this section shall control.
- (B) *Time of establishment.* No accessory use or structure shall be permitted on the subject lot until after the principal structure is permitted.
- (C) *General conditions.* All accessory uses and structures shall:
  - (1) Be clearly incidental and customarily associated with the principal use;
  - (2) Not involve the conduct of trade on the premises;
  - (3) Be located and conducted on the same lot as the permitted principal use or structure; and
  - (4) Be operated and maintained under the same ownership as the permitted principal use.
- (D) *Location of accessory structures.* Unless otherwise specified, all accessory structures shall comply with the following general location requirements:
  - (1) An accessory structure may be located only in the side or rear yards of the principal building.
  - (2) Accessory structures shall be located at least ten (10) feet from any principal or other accessory structure.
  - (3) No accessory structure shall be located within any platted or recorded easement or over any utility.
- (E) *Maximum height.* The maximum allowed height for an accessory structure located at the setback shall be 20 feet; the maximum height may be increased one foot for each one foot of increase in setback beyond the minimum to a maximum height of 25 feet. In no case shall an accessory structure be taller than the associated principal structure.
- (F) *Maximum floor area.*
  - (1) *Accessory to residential uses.* The maximum floor area of all structures accessory to residential uses may be 500 square feet or 50 percent of the total floor area of the principal structure, whichever is greater. A

covered breezeway which connects an accessory structure to the principal structure shall not be enclosed, shall be a maximum of six feet wide, and shall be included in the building coverage and maximum floor area calculations of accessory structures.

(2) *Accessory to nonresidential and agricultural uses.* The maximum floor area of all structures accessory to nonresidential uses shall not exceed ten percent of the lot area on which the permitted principal use is located.

(G) *Residential occupancy.* No accessory structure shall be used for a residence except as authorized by the decision-making body to be occupied by resident caretakers.

(H) *Approval of accessory uses and structures.* Unless otherwise specified, an accessory use or accessory structure shall be treated as a permitted use in the district in which it is located. An accessory use or structure may be approved in conjunction with approval of the principal use or structure.

(I) *Temporary accessory uses and structures.* Temporary accessory uses and structures shall be governed by the standards and temporary use permit procedures set forth in subsections 19-2.3.11 and section 19-4.5 of this chapter.

#### 4-4.3. *Standards for specific accessory uses and structures.*

(A) *Unlisted accessory uses or structures.* Accessory uses and structures not listed in this subsection 4-4.3 may still be permitted subject to compliance with the general development and operational standards of subsection 4-4.2.

(B) *Caretaker's residence.* Caretaker's residences are permitted as an accessory use in the C-1, C-2, M-1, and M-2 districts, subject to compliance with the following standards:

(1) Residential occupation of the premises shall be specifically required because of the nature of the principal use of the property or for the safekeeping of the property;

(2) The caretaker's residence shall be located on the same premises with the principal use for which it is required;

(3) There shall be no more than one caretaker's residence on the property and it shall be occupied only by owners or employees of the use for which it is required; and

(4) The caretaker's residence shall be constructed so that the exterior of the premises provides a development style consistent with the principal structure.

(C) *Home occupation.* A home occupation permit may be issued subject to the following standards:

(1) *Where allowed.* The home occupation shall be operated entirely within the dwelling unit or a related accessory building.

(2) *Who may operate.* Only by the persons maintaining residence on the lot may operate a home occupation. If the persons maintaining residence are not the owners, the property owner's permission must be provided.

(3) *Area.* The combined floor area of a home occupation shall not exceed 25 percent of the floor area of the principal structure.

(4) *Employees.* A home occupation may employ no more than one person who is not a resident in the applicant's home.

(5) *Operational requirements.*

(a) The home occupation shall not involve the retail sale of merchandise except for products related directly to services performed.

(b) No merchandise shall be displayed in such a manner as to be visible from off the premises.

(c) No outdoor storage shall be allowed in connection with any home occupation.

(d) No alteration of the residential character of the premises may be made and the hours and the manner in which the home occupation is conducted shall not be allowed to create a nuisance or disturbance.

(6) *Business owner.* The business must be owned by the owner of the property on which the home occupation is located, or the business owner must have written approval of the owner of the property if the applicant is a tenant.

(7) *Parking.* Off-street parking shall be provided in accordance with the requirements of section 6-1, off-street parking and loading.

(8) *Prohibited home occupations.* The following uses are prohibited as home occupations:

- (a) Landscaping business, other than office use;
- (b) Commercial greenhouse;
- (c) Contractor's business, other than office use;
- (d) Beauty salon or barber shop;
- (e) Automotive repair;
- (f) Furniture repair or cabinet shop;
- (g) Physician's or chiropractor's clinic;
- (h) Fortune telling.

(D) *Residential business.* A residential business may only be allowed by special exception. Residential businesses are small offices or small-scale retail or service businesses which are clearly incidental and secondary to the use of the dwelling for residential dwelling purposes. In addition to , and which fully comply with the following standards:

- (1) Residential businesses may include but are not limited to beauty shops, barber shops, professional offices and minor repair shops.
- (2) Residential businesses shall not include the repair and/or maintenance of motor vehicles, large scale manufacturing or any use, which will create noise, noxious odors, or any hazard that may endanger the health, safety or welfare of the neighborhood.
- (3) The residential business shall not involve group instruction or group assembly of people on the premises.
- (4) The business or profession must be conducted entirely within the dwelling.
- (5) The dwelling must be the bona fide residence of the principal practitioner at the time of the application and, if approved, the residential business shall be valid only as long as the principal practitioner resides in the dwelling, is conducting business and has a current business certificate.
- (6) Residential businesses shall be limited to no more than twenty-five (25) percent of the total heated floor area of the residence.
- (7) There will be no changes, which would alter the character of the dwelling or reveal from the exterior that the dwelling is being used in part for other than residential purposes.
- (8) The portion of the residence in which the business is conducted shall be completely enclosed in a manner that the business is not visible from the surrounding property.
- (9) No outside storage is allowed.
- (10) Property on which the residential business is proposed must have frontage on a public road.
- (11) Off-street parking shall be provided in accordance with the requirements of section 6-1, off-street parking and loading.
- (12) Access by customers and/or clients shall be 8:00 am through 6:00 pm, Monday through Saturday.
- (13) One commercial vehicle may be parked in the approved parking area on the property.
- (14) A utility trailer needed for the operation of the business must be specifically requested and approved by the Planning Commission.

(E) *Garages, carports, and off-street parking areas.* In residential districts, such uses shall serve only the residents of the property and shall not be used for any purpose other than an approved home occupation.

(F) *Display, sale, and repair of motor vehicles in all zoning districts.* The following activities are prohibited in all zoning districts:

- (1) The display and sale of passenger vehicles except for approved auto sales businesses that comply with all requirements of this chapter.
- (2) With the exception of vehicle sales and services establishments, the repair of more than one vehicle owned by a person residing at the location of the activity. Repair includes engine, body, or other repair; or painting.

- (3) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
- (G) *Day care homes.* Day care homes (see section 1.11, definitions) shall comply with the requirements of the state and subsection 4.4.3(C), home occupations.
- (H) *Fences and walls.* Any fence placed in a public right-of-way or an easement shall be removed at the fence owner's expense when required for public/utility improvements.
  - (1) Any allowed fence or wall may be constructed up to the boundaries of a parcel, with the following exceptions:
    - (a) Fences and walls shall be set back at least ten feet from the right-of-way of an arterial or collector street;
    - (b) Fences and walls shall not interfere with sight clearance at the intersection of streets and at the intersection of streets and driveways; and
    - (c) As may be restricted in subsection (H)(2)(b) below.
  - (2) The height and type of fence or wall is allowed based on the following provisions:
    - (a) *Residential districts.* In all residential districts a fence or wall in a side yard or rear yard shall not be opaque above a height of eight feet, or the height of the lowest portion of the eave of the principal building, whichever is less; and a fence or wall in a front yard shall not be opaque above a height of 30 inches. (Height is measured from the finished grade at the base of the fence or wall.) Chain link fencing is permitted in residential districts.
    - (b) *Nonresidential and form based code districts, except C-3.* In all nonresidential and form based code districts, except the C-3 district, a fence or wall in a side yard or rear yard shall not be opaque above a height of eight feet, or the height of the lowest portion of the eave of the principal building, whichever is less; and a fence or wall in a front yard shall not be opaque above a height of 30 inches. (Height is measured from the finished grade at the base of the fence or wall.) Chain link fencing is prohibited in the front yard, or within the required front building setback for undeveloped parcels. Any chain link fencing visible from a public street shall be coated in dark green or black vinyl. Barbed wire or other similar additions to fences is prohibited.
    - (c) *C-3, central business district.* In the C-3 district, a fence or wall in a side yard or rear yard shall not be opaque above a height of eight feet, or the height of the lowest portion of the eave of the principal building, whichever is less; and a fence or wall in a front yard shall not be opaque above a height of 30 inches. (Height is measured from the finished grade at the base of the fence or wall.) All chain link fencing is prohibited in all locations in the C-3 zoning district.
    - (d) *Industrial districts; public utilities and recreation areas.* In M-1, Wholesale and Light Industrial; M-2, General Industrial District, and on properties on which a public utility or recreational area any fence or wall is permitted, including chain link fencing. Height is not restricted. Barbed wire or other similar additions to fences is permitted.
- (I) *Solar energy systems.*
  - (1) *Purpose and findings.* It is the purpose of this section to promote the safe, effective and efficient use of solar energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. A solar energy system shall be permitted in any zoning district as an accessory to a principal use herein and subject to specific criteria as set forth below. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
  - (2) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Mechanical equipment.* Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.
  - (b) *Solar access.* A property owner's right to have sunlight shine on the owner's land.
  - (c) *Solar energy system.* An energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy requirements of the on-site user. This definition shall include the terms passive solar and active solar systems.
  - (d) *Solar glare.* The effect produced by light reflecting from a solar panel with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
- (3) *Applicability.* This subsection applies to solar energy systems to be installed and constructed after September 3, 2013. Any upgrade, modification, or structural change that materially alters the size or placement of a solar energy system existing prior to September 3, 2013 shall comply with the provisions of this subsection.
- (4) *Requirements.* The installation and construction of a solar energy system shall be subject to the following development and design standards:
- (a) A solar energy system is permitted in all zoning districts as an accessory to a principal use.
  - (b) A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
  - (c) A solar energy system connected to the utility grid shall provide written authorization from the local utility company to City of Perry acknowledging and approving such connection.
  - (d) A solar energy system may be roof mounted or ground mounted.
  - (e) A roof-mounted system may be mounted on a principal building or accessory building. A roof-mounted system, whether mounted on the principal building or accessory building, may not exceed the maximum principal building height or accessory building height specified for the building type in the underlying zoning district. In no instance shall any part of the solar energy system extend beyond the edge of the roof.
  - (f) A ground-mounted system shall not exceed the maximum building height for accessory buildings.
  - (g) The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
  - (h) A ground-mounted system or system attached to an accessory building shall not be located within the front yard.
  - (i) The minimum solar energy system setback distance from the property lines shall be equivalent to the accessory building setback requirement of the underlying zoning district.
  - (j) All mechanical equipment associated with and necessary for the operation of the solar energy system shall comply with the following:
    - (i) Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other non-invasive plant species which provide a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the Perry Land Development Ordinance may be used.
    - (ii) Mechanical equipment shall not be located within the front yard.
    - (iii) Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.
  - (k) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
  - (l) Solar panels shall not be placed in the vicinity of any airport in a manner that would interfere with airport flight patterns. Acknowledgment from the Federal Aviation Administration may be necessary.



- (m) All power transmission lines from a ground-mounted solar energy system to any building or other structure shall be located underground.
  - (n) A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulations.
  - (o) A solar energy system shall not be constructed until a building/zoning permit has been approved and issued.
  - (p) The design of the solar energy system shall conform to applicable industry standards. All wiring shall comply with the applicable version of the National Electric Code (NEC). The local utility provider shall be contacted to determine grid interconnection and net metering policies.
  - (q) The solar energy system shall comply with all applicable City of Perry Ordinances and Codes so as to ensure the structural integrity of such solar energy system.
  - (r) Before any construction can commence on any solar energy system, the property owner must acknowledge that he/she is the responsible party for owning and maintaining the solar energy system.
  - (s) Any solar energy system constructed after September 3, 2013, with the exception of those where the principal use is a single- or two-family dwelling, shall be reviewed in accordance with Section 6-6.1, Architectural Design Standards for Non-Residential Structures.
  - (t) Any solar energy system constructed after September 3, 2013, which is located within a special district as designated in section 3-2.2 shall comply with the requirements of said special district, where applicable.
- (5) *Removal.* If a ground-mounted solar energy system is removed, any earth disturbance as a result of the removal of the ground-mounted solar energy system shall be graded and reseeded.
- (6) *Repairs required.* If a ground-mounted solar energy system has been abandoned (meaning not having been in operation for a period of six (6) months) or is defective or is deemed to be unsafe by the administrator, the solar energy system shall be required to be repaired by the owner to meet federal, state and local safety standards, or be removed by the property owner within the time period allowed by the administrator. If the owner fails to remove or repair the defective or abandoned solar energy system, the City of Perry may pursue a legal action to have the system removed at the owner's expense.
- (J) *Fallout shelters.* Fallout shelters are permissible as an accessory structure in any district, subject to the following conditions.
- (1) If any portion of the structure extends above the ground, that portion above must comply with the yard and lot coverage regulations of the district in which it is located, and the site plan for such shelter must be approved by the Building Inspector.
  - (2) If the structure is completely underground, it need not comply with yard requirements or percentage of lot coverage requirements.
  - (3) A fallout shelter, underground or aboveground, shall be confined to a side or rear yard and shall not be located in the front yard between the main building and the street on which it fronts.
  - (4) Fallout shelters may contain or be contained in other structures or may be constructed separately.
- (K) *Satellite dish antennas.*
- (1) In residential districts, the satellite dish antenna shall be located, to the extent feasible as documented by the satellite provider, in locations that are not visible from the street. Provided however, in the event the satellite dish is located in the front yard same shall be screened unless such screening impairs the installation, maintenance or use of the antenna as documented by the satellite provider. Satellite dish antennas must meet applicable building setback requirements for the district in which said satellite dish antenna is to be located.
  - (2) In commercial and industrial districts, the satellite antenna must be located to the extent feasible as documented by the satellite provider, in locations that are not visible from the street or on the roof of the main building provided said dish antenna does not exceed Federal Aviation Administration height limits for the district in which said dish antenna is to be located. In the event the satellite dish antenna is located in

the front yard, said satellite dish antenna shall be screened unless such screening impairs the installation, maintenance or use of the antenna as documented by the satellite provider.

- (L) *Animals in residential districts.* Animals may be kept in residential districts subject to the district regulations and the following standards:

Table 4-4-3: Animal Density in Residential Districts		
Minimum Lot Area	Type of Animal	Maximum Density
1 acre	Horse, pony or any combination thereof	1 per 1 acre
1 acre	Foul, rabbit, or any combination thereof	10 per ½ acre

- (M) *Hobby beekeeping.*

- (1) Definitions of terms. In addition to the general definitions provided in this Ordinance, the following definitions shall apply to this section:

*Apiary* means the assembly of one or more hives of bees at a single location. *Beekeeper* means a person who owns or has charge of one or more hives of bees. *Hive* means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.

*Hobby beekeeping* means a beekeeper that is not required to be licensed under the provisions of the Georgia Bee Law (O.C.G.A. 2-14-40).

- (2) It shall be unlawful for any beekeeper to keep any hive or hives in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others or interfere with the normal use and enjoyment of any public property or property of others.
- (3) Hobby beekeeping may be permitted provided the following requirements are met:
- (a) *Requirement for commercial beekeepers.* The Georgia Bee Law (O.C.G.A. 2-14-40) requires that all beekeepers selling bees, queens, nuclei, etc., commercially be licensed. All other beekeepers (e.g., hobbyists, pollinators, honey producers) are not required to be licensed.
  - (b) *Registration required.* All beekeepers are required to annually register with the City of Perry Community Development Department. New or additional hive(s) shall be registered with the city prior to placing on the property.
  - (c) *Setbacks.* The hive(s) shall be setback a minimum setback of ten (10) feet from all property lines. Where a hive is located within twenty-five (25) feet of a property line, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet high in the vicinity of the apiary. Hives in an area located as described above shall have the hive opening facing inward of the property on which they are located. Hives are specifically prohibited from the front yard or a side yard which abuts a street.
  - (d) *Hive densities.* Two (2) hives shall be permitted for the first one-quarter (¼) acre and one (1) additional hive for each one-quarter (¼) acre thereafter. Hives are prohibited on parcels having an area of less than one-quarter (¼) acre.
  - (e) *Water.* Each beekeeper shall ensure that a convenient source of water is available to the bees at all times. The water shall be in a location that minimizes any nuisance created by bees seeking water on neighborhood property.
  - (f) *General maintenance.* Each beekeeper shall ensure that no bee comb or other materials are left upon the grounds of the apiary site. All such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.
  - (g) *Queens.* In any instance in which a hive exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition toward swarming, the beekeeper shall promptly re-queen the colony. Queens shall be selected from European stock bred for gentleness and non-swarming characteristics.

- (h) *Africanized honeybees*. The African species of bees or any hybrid involving the African species is prohibited.

## **Sec. 4-5. Temporary uses and structures.**

4-5.1. *Purpose*. This section allows for the establishment of certain temporary uses of limited duration, provided that such uses are discontinued upon the expiration of a prescribed time period. Temporary uses do not involve the construction or alteration of any permanent building or structure.

4-5.2. *General standards for all temporary uses and structures*. All temporary uses and structures shall meet the following general requirements, unless otherwise specified in this chapter:

- (A) All temporary uses shall obtain a temporary use permit.
- (B) The temporary use shall not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.
- (C) The temporary use shall not have substantial adverse impacts on nearby residential uses.
- (D) Permanent alterations to the site are prohibited.
- (E) If the property is developed, the site of the temporary use and structure shall be located in an area that supports the temporary use without encroaching into, or creating a negative impact upon, existing buffers; open space; landscaping; pedestrian and vehicular traffic movements (including emergency vehicle access); and parking space availability.
- (F) If the property is undeveloped, the site of the temporary use and structure shall be located in an area with sufficient land area to enable the temporary use to function adequately, including any parking and traffic movement that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers.
- (G) The temporary use shall not violate any applicable conditions of approval that apply to the principal use on the site.
- (H) Off-street parking shall be adequate to accommodate the proposed temporary use.
- (I) All approved temporary signs associated with the temporary use shall be removed when the activity ceases.
- (J) All otherwise applicable permits and inspections have been issued and approved.

4-5.3. *Specific standards for certain temporary uses and structures*.

- (A) *Seasonal sales*. Seasonal sales, including the sale of such items as Christmas trees and pumpkins, seasonal produce, and other similar agricultural products, may be permitted for a maximum of 90 days.
- (B) *Sidewalk and parking lot sales*. sidewalk and parking lot sales located on the same lot as the merchant's principal use may be permitted for a maximum of 60 days per calendar year. There shall be no more than three temporary sidewalk or parking lot sales of goods per site per calendar year.
- (C) *Construction-related activities*. Construction-related activities may be permitted subject to the following standards:
  - (1) Temporary construction-related activities, including construction offices and storage buildings, outdoor storage, and employee parking areas, may occur on the same site as the construction activity without obtaining a temporary use permit. Such uses shall be removed within 30 days after issuance of a final certificate of occupancy.
  - (2) Because of site constraints, construction-related activities may need to occur on a site that is adjacent to or nearby the construction site. In such cases, a temporary use permit is required. Such uses shall be removed and the site restored to its previous condition within 30 days after issuance of a final certificate of occupancy.
- (D) *Temporary office facilities*. temporary facilities used as sales/leasing offices, including those located in a model unit of a residential project or used during construction to expand or replace a permanent building, may be permitted on the same site as the permanent use. Sales offices may be established for pre-sales or leasing prior to construction of the project.
  - (1) Such temporary offices may remain on the site for a period of time not to exceed 12 months. This period may be renewed for a period of time not to exceed two six-month periods upon approval of the

administrator 30 days prior to the expiration of the permit. In no event, however, shall such extensions allow the temporary use to remain on the site for more than two years.

- (2) In addition to meeting the general standards of subsection 4.5.2, all structures approved pursuant to this section shall meet the following standards and requirements:
  - (a) *Location.* Such structures may be located anywhere on site except within existing vegetated buffers or other areas designated on the site plan to remain free from land-disturbance.
  - (b) *Other requirements.*
    1. The temporary structure shall be either a modular building unit or a building constructed to the standards of the state building code.
    2. Underpinning, skirting, or other curtain wall materials shall be installed.
    3. All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained prior to installation of the temporary structure.
    4. A sketch plan containing sufficient information to show compliance with the above standards shall be submitted to and approved by the administrator prior to installation of the temporary structure.
- (E) *Use of travel trailer or motorized home as a temporary residence.* The use of a travel trailer or motorized home as a temporary residence may be permitted subject to the following standards:
  - (1) A temporary use permit shall be obtained.
  - (2) The temporary residence replaces the permanent residence of the applicant which has been rendered uninhabitable due to fire, vandalism, or natural disaster.
  - (3) Use of the temporary residence shall be limited to the time needed to repair/restore the permanent residence to a habitable condition or six months, whichever is less. The administrator may extend the temporary use for additional six-month periods.
- (F) *Use of motor vehicle, trailer, or shipping container for sales, service, storage, or other business.* The use of any motor vehicle, trailer, or shipping container in which, out of which, or from which any goods are sold, stored, services performed, or other business conducted shall be prohibited in all zoning districts, except as may be allowed by a temporary use permit. This subsection shall not prohibit the use of a motor vehicle, trailer, or shipping container for the following uses without benefit of a temporary use permit:
  - (1) The sale of food and drink products at a city-approved-event;
  - (2) Construction authorized by a building permit;
  - (3) The temporary loading and unloading of goods provided that no individual trailer or container is in place longer than 48 hours;
  - (4) The temporary storage of seasonal merchandise; or
  - (5) The storage of baled lawn and garden products.

See section 6-1.10 for standards for parking or storing recreational vehicles, utility trailers, and food trucks.