



PROJECT STATUS

Due to the length and complexity of the project, the consultants working with the City will be updating the zoning and subdivision code in manageable sections. City staff, the City Attorney, and the steering committee charged with providing initial feedback will review each section that the consultants will then revise before posting on the project website.

This packet includes a draft of the third section of code which includes the following articles of the new Chapter 25—Zoning and Subdivision Code:

- Article IV—Community Unit Plans
- Article V—Accessory Use Regulations
- Article VI—General Development Standards
- Article XI—Telecommunications
- Article XIV—Definitions (a partial list of definitions relevant to the articles being reviewed)

Throughout the document, please note that the “<>” symbol is a placeholder for future dates, cross-references, and other pieces of information. Parenthetical titles are used to help enable the reader to compare proposed language to existing language in the code and highlight new information.

In order to keep this project moving forward, the steering committee will have a final discussion regarding this draft section at their next meeting unless an issue has been specifically called out to revisit at a later time. If you have any questions or comments on this draft section, please contact City Planner Jonathan Raiche at raichejd@kirkwoodmo.org or 314-984-5926 by noon on Monday, October 28th.

CONTENT SUMMARY

The most significant changes in this portion of the code include:

Increasing the setbacks for certain accessory structures

The committee had a conversation about the setbacks required for accessory structures and, more specifically, about tall or wide accessory structures. Following these discussions, the recommendation is that any accessory structure that exceeds 15 feet in height or that has a façade/wall length over 25 feet in width shall be required to meet the side and rear setbacks required for the principal building.

Accessory dwelling units with standards

Although the committee was not unanimous on whether accessory dwelling units should be permitted in Kirkwood, the committee gave direction that accessory dwelling units could be considered as a special use. The current draft makes provisions for this new special use along with requirements including that the property owner must live in one of the units. At the meeting, the committee also recommended that the minimum square footage of lot required be increased from 7,500 square feet to 15,000 square feet and that other modifications be made to allow the units but under very strict requirements.



More stringent FAR

The committee is recommending changes to make the FAR requirements more restrictive by significantly increasing the amount of space in attached garages, 2-story living areas, and half-stories that are included in the calculation.

More restrictive side setbacks for R-4 and R-5 & restricted encroachments

Instead of allowing a five foot setback for all lots that are below the width required by code, the revised code proposes a sliding scale that will gradually reduce the side setbacks based on the lot width, leaving five feet as the minimum—only lots approximately 39 feet wide would be able to achieve that minimum setback. It also prohibits any ground-level encroachments such as air conditioners and chimneys within the first five feet of setback.

Consistent side setback methodology for R-3

R-3 is currently the only residential district where side setback relief is not provided for *all* lots below the minimum width required by code. The committee discussed the possibility of treating R-3 more similarly to other residential districts and allowing a sliding scale for side setbacks with a set minimum of 8 feet and reduced encroachments. The goal would be to provide more predictable results than the current system which results in variance requests, allowing setbacks to be determined on a case by case basis. Ultimately the committee decided that this additional relief would be recommended for building additions and not new construction.

Building Height in the B-2 District (Downtown Business)

One of the outstanding recommendations from the City's Downtown Master Plan was to consider increasing the maximum building heights in the B-2 District. This topic previously went through the Planning & Zoning Commission and multiple City Council work session before the Council decided to table the item for consideration during this comprehensive review project. The committee began discussion by considering the language that resulted from the multiple City Council work sessions which would allow for increased building heights only in the outer downtown area (Phase 2 of the Downtown Study Area). The committee ultimately decided to keep the language which allows 50' height for single-use buildings and 75' for mixed-use buildings in the Phase 2 area of downtown. The recommendation also includes language that would measure building height to the top of occupied space rather than various points on a roof as an effort to encourage varying rooflines rather than encouraging everyone to build to the maximum height with a flat roof.

TOPICS FOR THE NEXT CODE SECTION

The next section of code will cover architectural standards as well as parking, access, and mobility standards. It is tentatively scheduled to be released for public review in November.

For more information, go to www.KirkwoodByDesign.com

Chapter 25 – Zoning and Subdivision Code

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Article IV: Community Unit Plans

§ 25-37. Purpose (NEW)

The community unit plan seeks to provide a means of achieving greater flexibility in development of land for residential purposes in circumstances where properties face natural physical challenges.

§ 25-38. Applicability (Current A-810)

A community unit plan is available to the owner or owners of any tract of land in any district zoned for residential purposes where there is a question as to the suitability of a lot or lots for their intended use due to adverse natural physical conditions such as rock formation, soil conditions, steepness of terrain, or flood conditions.

§ 25-39. Review Procedure

Review procedures established in <> shall apply to community unit plans.

§ 25-40. Requirements (Revised A-810)

- (a) The proposed community unit plan shall include a statement of finding that details the existing adverse natural physical conditions of the site which makes it unsuitable for development in accordance with the provisions of this code. Supporting documentation, such as a soils report or other professional report signed and sealed by a licensed engineer in the State of Missouri, may be required by the Director of Public Services.
- (b) Adjacent property shall be properly safeguarded
- (c) The proposed community unit plan shall be consistent with the intent and purpose of this code to promote the public health, safety, and general welfare.
- (d) Improvements to be located on the tract of land shall be used only for residential purposes and the usual accessory uses such as garages, storage space and community activities.
- (e) The average land area per dwelling unit contained in the net site area shall not be less than the land area per dwelling unit required by the area regulations of the existing or petitioned for district in which such tract of land is situated.
- (f) As a condition of approval, an area of at least 10% of the net site area, or 1/2 acre, whichever is larger, may be required to be set aside and permanently maintained as a playground or recreational area for use of residents of the tract of land.
- (g) The proposed community unit plan shall provide adequate legal provisions to ensure that the development plan approved will be constructed and completed, and that any common areas will be properly protected and maintained. In order to effectuate this subsection, it may be required as a condition of approval of the development plan that deed restrictions or a trust indenture be executed and recorded.
- (h) Community buildings may be permitted which may be used for recreation, meeting, or community dining space when not operated for profit.

Article V: Accessory Uses and Structures¹

§ 25-41. Purpose. (New)

This section authorizes the establishment of accessory uses and structures that are incidental and customarily subordinate to principal uses. The intent of this section is to allow a broad range of accessory uses while not creating adverse impacts on surrounding properties.

§ 25-42. General Provisions. (Revised Multiple Sections)²

- (a) An accessory use or structure shall be incidental to the primary use of the lot, and shall not alter the character of the principal use.
- (b) Unless otherwise stated in this code, accessory uses and structures shall be constructed on the same lot as the principal use that it serves.³
- (c) Unless approved as an accessory dwelling unit that meets the standards of Section <>, residential accessory structures shall not include a basement, cooking facilities, sleeping area, shower, or bathing facility.
- (d) No accessory structure shall be constructed on any lot until the construction of the principal structure has commenced. In cases where the main or principal structure is demolished, an existing accessory structure shall be allowed to remain on the lot or property without the main structure to which it is supposed to be an accessory with the submission of a deposit to cover the potential demolition and on the following conditions:
 - (1) Up to 180⁴ days consistent with that allowed by Article <> (Nonconformities); or
 - (2) A building permit is obtained for the reconstruction of the main or principal structure, the construction of which shall take place within 12 months. Failure to reconstruct the main or principal structure will be an automatic cause for the removal of the accessory structure at the owner's expense.
- (e) Gardens and the raising of crops for the personal use of the residents, tenants, or property owners, may be grown in any yard, without a permit.
- (f) An accessory structure that is attached to the principal building shall be considered an integral part of the principal building and shall comply with the development standards for the principal building. Any accessory structure shall be considered an integral part of the principal building if there is a substantial connection between the accessory structure and principal building by a roof or wall.

¹ In the code diagnosis, this article was called “accessory and temporary use regulations” but most of the common temporary uses are addressed outside of zoning in Kirkwood, with the only exception being related to temporary structures for construction. For this reason, we have renamed the article and are incorporating the temporary structures for construction as an accessory use.

² We have pulled together the accessory use regulations for all districts and combined the general provisions in this one section with revisions for the purpose of enhancing current regulations.

³ There was no clear requirement for this but it is a common standard to prevent the potential selling of the principal use without the related accessory use. As mentioned in the principal use discussion, parking lots that are on separate lots and accessory to other uses will still be considered principal uses (special use) with requirements that they serve nonresidential uses in the same district.

⁴ The current language sets out an allowance of only 90 days but the nonconforming use provisions give 180 days so we have proposed a shift to be consistent.

- (g) Small accessory structures such as doghouses, hose boxes, etc. that have a footprint of less than 10 square feet and are not determined to be a building shall be exempt from the provisions of this article provided they are located in the side or rear yard.
- (h) **Maximum Height**
- (1) Unless otherwise stated, the maximum height of a detached accessory structure shall be 24 feet, or one and one-half stories⁵. In no case shall an accessory structure exceed the height of the principal building.
 - (2) Any accessory building that exceeds 15 feet in height shall maintain a minimum side and rear setback equal to the side setback required for principal structures in the applicable zoning district.⁶
- (i) **Maximum Size and Coverage in Residential Zoning Districts**
In all residential districts, the total of all accessory structures under roof, including those considered to be small accessory structures exempt from other sections of this article, shall not exceed a site coverage of seven percent of the total lot area or no more than 1,500 square feet, whichever is less.
- (j) **Setback and Location Requirements**
- (1) Unless otherwise stated in this section, all accessory uses and structures shall be set back a minimum of five feet from all lot lines.
 - (2) Any accessory structure that has a wall or façade length of more than 25 feet, regardless of the presence of architectural features or façade, offsets, shall maintain a minimum side and rear yard setback equal to the side setback required for principal structures in the applicable zoning district.⁷
 - (3) Additional setbacks may be required from the principal building, adjacent structures, or streets based on the applicable building or fire code regulations.
 - (4) Detached accessory structures shall be separated from the principal building by a minimum of ten feet unless a reduced setback is permissible by the applicable building and fire codes. See also Section <>.⁸
 - (5) No detached accessory structure shall be located less than ten feet from the principal building. If the separation of the accessory and main structure is less than ten feet, the accessory structure shall be protected with a fire-resistant material and shall conform to the same yard requirements as the principal building.
 - (6) Table <> establishes the yards in which accessory structures and uses are permitted. Figure <> illustrates typical lot types and the locations of each yard as it relates to accessory uses and structures and the provisions of this article.⁹

§ 25-43. Prohibited Structures for Accessory Uses. (New)

Except as provided in code, the use of structures that are not permanently anchored into a foundation including, but not limited to, inflatable garages or storage structures, portable

⁵ Accessory dwelling units will be permitted to be two stories under limited circumstances.

⁶ This is new to Kirkwood and would push back taller buildings from the side and rear lot lines.

⁷ We will develop a graphic that illustrates this concept.

⁸ The 10-foot separation is a fire code requirement but there are construction alternatives that can allow for the reduction of this separation requirement. The cross-reference in this section will be back to the general provisions that reference when an accessory structure becomes a part of the principal building.

⁹ We will be adding a graphic that shows where the front, side, and rear yards are located as it relates to accessory uses and individual lot types such as corner lots, through lots, panhandle lots, and interior lots.

carports or garages, portable containers, shipping containers, and semi-tractor trailers used for storage (with or without wheels) shall not be used as permanent accessory structures in any zoning district.

§ 25-44. Permitted Accessory Uses and Structures

The following is an explanation of [Table <>](#).

- (a) The symbols for permitted uses (P), permitted uses with standards (PS), and special uses (S) are defined in the same manner as Section [<>](#).
- (b) **Prohibited Uses**
 - (1) A blank indicates that a use is prohibited in the respective zoning district.
 - (2) Any use not specifically listed shall be considered prohibited unless approved through a code amendment or addressed through Section <> (Use Determination).
- (c) **Yards Permitted**

This column identifies within which yards the use may be permitted. See the use-specific standards for any restrictions related to placement in individual yards. In some cases, accessory uses are only permitted within the principal building or an approved accessory structure, in which case the table establishes these as “indoors”.
- (d) **Use-Specific Standards**

The numbers contained in the “Use-Specific Standards” column are references to additional standards and requirements that apply to the use type listed. Standards referenced in the “Use-Specific Standards” column apply in all zoning districts unless otherwise expressly stated.
- (e) **Downtown Study Area**

The Downtown Study Area, as established in the Downtown Master Plan Report, is a special area that overlaps multiple zoning districts. The column titled “Downtown Study Area” identifies where and how accessory uses and structures are permitted or prohibited in the study area regardless of the zoning district.
- (f) **Use Determination and Unlisted Uses**
 - (1) The Director of Public Services shall make the determination if a proposed use is permitted, permitted with standards, a special use, or a prohibited use under the provisions of this section.
 - (2) An applicant may appeal a determination by the Director of Public Services in accordance with <> or may seek a text amendment in accordance with <>.

Article V: Accessory Uses and Structures
§ 25-44: Permitted Accessory Uses and Structures

TABLE <>: PERMITTED ACCESSORY USES AND STRUCTURES								
Use Category and Use Type P = Permitted Use PS = Permitted Use with Standards S = Special Use	R-1, R-2., R-3 or R-4	R-5, R-6, or R-MM	B-1	B-2, B-3, B-4, B-5, or I-1	Downtown Study Area	F-1	Yards Permitted F = Front S = Side R = Rear	Use-Specific Standards in Section:
Accessibility Ramps ¹⁰	PS	PS	PS	PS	PS	PS	F, S, or R	§ 25-45(a)
Accessory Dwelling Units ¹¹	S						S or R	§ 25-45(b)
Amateur Radio Towers and Antennae	PS	PS	PS	PS	PS	PS	S or R	§ 25-45(c)
Clubhouses		S					F, S, or R	§ 25-45(d)
Community Gardens	PS	PS	PS	PS	PS	PS	F, S, or R	§ 25-45(e)
Detached Garages and Carports	PS	PS	PS	PS	PS	PS	S or R	§ 25-45(f)
Detached Storage/Utility Sheds, Gazebos, Pool Houses, Greenhouses, and other Similar Accessory Buildings ¹²	PS	PS	PS	PS	PS	PS	S or R	§ 25-45(g)
Drive-Through Facilities				S			See Section § 25-45(h)	
Family Day Care Homes	PS	PS	PS	PS	PS		Indoors	§ 25-45(i)
Group Day Care Homes	S	S	S	S	S		Indoors	
Home Occupations	PS	PS	PS	PS	PS		Indoors	§ 25-45(j)
Nursery Schools or Day Care Centers (Children or Adults)	PS	PS	PS	PS	PS		NA	§ 25-45(k)
Off-Site Parking	S	S	PS	PS	PS		All of the Lot	§ 25-45(l)
On-Site Parking	See Article <>.							
Outdoor Displays and Sales ¹³			PS	PS	PS		F, S, or R	§ 25-45(m)
Outdoor Dining			S	S	S		F, S, or R	§ 25-45(n)
Outdoor Seating			PS	PS	PS		F, S, or R	§ 25-45(n)
Outdoor Storage and Bulk Sales				S			S or R	§ 25-45(o)
Outdoor Vending Machines and Drop-Off Boxes				PS			F, S, or R	§ 25-45(p)
Playsets	PS	PS					S or R	§ 25-45(q)
Retail Businesses	PS	PS	PS	PS	PS	PS	Indoors	§ 25-45(r)
Satellite Dishes	PS	PS	PS	PS	PS	PS	See § 25-45(s) .	
Solar Energy Systems ¹⁴	See Section <>.							

¹⁰ These are usually just handled through the building code but many communities want to address them in the zoning code so we have added language that can be removed if addressed elsewhere in the codified ordinances.

¹¹ This is draft language related to ADU's, which 73% of people who participated in the residential online survey said they supported. ADUs could be permitted with standards or a special use based on further discussions.

¹² The City currently allows for noncommercial workshops, studios, etc. in a permitted building. Is this really needed as a separate use or should it just be stated as allowable within the actual accessory building type?

¹³ This use is intended to be for the sale of small items that are on display outdoors Where outdoor storage and bulk sales are for more intense outdoor operations whether for commercial or industrial purposes.

¹⁴ The standards for solar and wind energy systems are being updated as part of an entirely separate section that addresses it both as a principal and accessory uses. This section will just cross-reference that section.

TABLE <>: PERMITTED ACCESSORY USES AND STRUCTURES								
Use Category and Use Type P = Permitted Use PS = Permitted Use with Standards S = Special Use	R-1, R-2., R-3 or R-4	R-5, R-6, or R-MM	B-1	B-2, B-3, B-4, B-5, or I-1	Downtown Study Area	F-1	Yards Permitted F = Front S = Side R = Rear	Use-Specific Standards in Section:
Sport Courts (Outdoor)	P	P	P	P	P	P	S or R	
Sport Equipment	PS	PS	PS	PS	PS	PS	F, S, or R	§ 25-45(t)
Swimming Pools (Outdoors)	PS	PS	PS	PS	PS	PS	S or R	§ 25-45(u)
Temporary Construction Structures	PS	PS	PS	PS	PS	PS	See § 25-45(v)	
Unenclosed Patios, Porches, and Decks	PS	PS	PS	PS	PS	PS	F, S, or R	§ 25-45(w)
Vestibules		PS					F, S, or R	§ 25-45(x)
Wind Energy Systems	See Section <>.							

§ 25-45. Standards for Specific Accessory Uses and Structures

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section [<>](#).

(a) Accessibility Ramps

Ramps that provide access to buildings for the disabled are permitted in all zoning districts and may encroach in all setbacks but shall not be located within five feet of a side property line, to the maximum extent feasible¹⁵. Ramps shall not encroach on a public sidewalk, right-of-way, or street.

(b) Accessory Dwelling Units

- (1)** Accessory dwelling units shall only be permitted when accessory to a single-family dwelling on a single lot.
- (2)** Accessory dwelling units may be constructed within an existing dwelling unit (interior apartment) or as a separate or converted accessory structure (e.g., converted garage, carriage house, unit above a garage).
- (3)** An accessory dwelling unit that is constructed within the principal dwelling (interior apartment) shall comply with the following:
 - (i)** May occupy a basement, first, or second story of a main residence if it is designed as an integral part of the main residence and meets the setbacks required for the main residence.
 - (ii)** Any separate external entrance shall be located on the side or in the rear of the building.
- (4)** An accessory dwelling unit that is in a separate, detached building or is added to a detached building shall be constructed in a manner that reflects the architectural style, materials, colors, and roof design of the principal dwelling. Such detached building shall have a side and rear yard setback equal to the side yard setback requirement for principal buildings in the applicable zoning district.

¹⁵ We will be checking with the Building Commissioner and City Attorney on whether a setback can be required.

- (5) No existing accessory building can be converted to an accessory dwelling unit or modified to incorporate an accessory dwelling unit without meeting all the standards of this section including the required setbacks.
- (6) Accessory dwelling units may have a maximum height of up to two stories. In no case shall an accessory dwelling unit exceed the height of the principal building.
- (7) Only one accessory dwelling unit is permitted on an individual lot.
- (8) There shall be a minimum lot area of 15,000 square feet for any lot that contains an accessory dwelling unit.
- (9) The maximum size of an accessory dwelling unit shall be 750 square feet of floor area and shall not contain more than two bedrooms. The calculation of floor area shall include basements.
- (10) One off-street parking space shall be provided in addition to any spaces required in Section <>. Such parking space shall have direct, drivable access to a street.
- (11) The owner of the lot shall reside in either the principal dwelling or accessory dwelling unit as long as both dwelling units are occupied as residences.

(c) Amateur Radio Towers and Antenna¹⁶

- (1) No more than one amateur radio tower and/or antenna shall be permitted on each lot.
- (2) Ground-mounted amateur radio towers, antennas, and related guy wire anchors must be located in the rear yard.
- (3) Such tower shall not exceed 55 feet in height. The measurement shall be made from the grade directly beneath the tower to the highest point on the antenna or tower, whichever is the tallest point of the structure.
- (4) Antennas and guy wire anchors shall not overhang or otherwise be located within required accessory structure setbacks or on adjacent lots.
- (5) When an amateur radio tower and antenna is no longer being used by an FCC amateur radio license holder for amateur radio service, the tower and antenna must be removed no more than 180 days after cessation of the FCC license or the transfer or property ownership or lease to an individual without an FCC license.
- (6) Amateur radio towers and antennas that do not comply with the provisions of this section shall require a special use permit (See Section <>). The application for a special use permit for amateur radio towers and antennas must demonstrate that compliance with the provisions of this section would prevent the amateur radio operator from exercising the rights granted to him or her by the FCC or the State of Missouri by license or law.

(d) Clubhouses

- (1) Only one clubhouse is permitted as part of a development in the R-5 or R-6 District.
- (2) Such clubhouse shall be for the use and gathering of the residents in the development the clubhouse serves.
- (3) The clubhouse shall not be used or leased out for commercial purposes.

¹⁶ This expands on the city's current regulations and establishes some additional standards in keeping with federal rules.

- (4) The clubhouse shall be designed with a residential character that reflects the architectural style, materials, and colors of the other principal residential dwellings of the related development.
- (e) **Community Gardens**
Community gardens that are accessory to another principal use shall be subject to the same rules as established for community gardens in Section <> (Principal Uses).
- (f) **Detached Garages and Carports**
Only one detached garage or carport is permitted on an individual lot.
- (g) **Detached Storage/Utility Sheds, Gazebos, Pool Houses, Greenhouses, and other Similar Accessory Buildings**
A maximum of two such buildings are permitted on an individual lot.
- (h) **Drive-Through Facilities**
The following standards shall apply to businesses that contain a drive-through facility regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).
- (1) Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 250 feet of any residential dwelling unit.
- (2) All drive-through areas, including but not limited to drive-through signs, waiting lanes, trash receptacles, audio equipment, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.
- (3) If the drive-through window, drive-through signage (See Section <>.), or any audio equipment are located in the front yard, they shall be screened with landscaping of a height that will fully screen the window, signage, or audio equipment. Such screening shall not be required for waiting spaces that are located in a front yard.
- (4) Drive-through facilities shall be required to include vehicle queuing lane requirements as established in Section <>.
- (i) **Family Day Care Homes**
- (1) Each family day care home shall not provide for more than six children unrelated to the day care operator.
- (2) No such home shall be permitted unless it is licensed by the Department of Public Health and Welfare, Division of Welfare, State of Missouri.
- (3) Not more than one such home shall be permitted on each block. The term "block" as used herein means on both sides of the street between two intersecting streets, or from an intersecting street to the dead end of a street. In no instance shall there be more than 30 such family day care homes established and permitted within the City of Kirkwood.
- (4) No family day care home shall be permitted unless the yard in which the home would operate meets the minimum requirements of the zoning district in which the home is located.
- (5) A family day care home shall only be permitted in a business or industrial district if it is accessory to a residential dwelling.

- (6) A permitted family day care home shall operate only within the hours of 7:00 a.m. to 7:00 p.m. for the care of children not related to the day care operator.
- (7) The occupancy permit for a family day care home shall be granted for 12 months, at the end of which time the operator shall be required to apply for a renewal of the occupancy permit for said permitted use. At the time of so applying, the operator must demonstrate and show to the Director of Public Services that the family day care home complies with all of the minimum standards herein set forth before the occupancy permit for said permitted use may be renewed.

(j) Home Occupations

The following standards for home occupations are intended to provide reasonable opportunities for employment within the home, while avoiding changes to the residential character of a dwelling that accommodates a home occupation, or the surrounding neighborhood, where allowed by this section.

- (1) The home occupation shall be clearly secondary to the full-time use of the property as a residence.
- (2) Any home occupation that provides services where members of the public visit or enter the premises may be permitted if designed to accommodate one client at a time and which meets all other applicable requirements for home occupations.

(3) Permitted Home Occupations¹⁷

The following uses are examples of uses that may be approved as a home occupation when in compliance with this section:

- (i) Art and craft work including, but not limited to ceramics, painting, photography, dressmaking, sewing, weaving, tailoring, ironing, washing, and sculpting;
- (ii) Office-only uses, including, but not limited to, an office for an architect, financial advisor, attorney, consultant, counselor, insurance agent, planner, tutor, contractor, or writer;
- (iii) Personal service establishments including, but not limited to, beauty parlors, barber shops, or licensed massage or physical therapy;
- (iv) Mail order, online businesses, or direct sale product distribution (e.g., Amway, Avon, Creative Memories, Pampered Chef, etc.); and
- (v) Other similar uses that the Director of Public Services determines to be similar in nature and impact on the property and surrounding neighborhood.

(4) Prohibited Home Occupations

The following are business activities that are prohibited as home occupations:

- (i) Animal hospitals, grooming, and boarding facilities;
- (ii) Automotive and other vehicle repair and service;
- (iii) Construction, landscaping, or similar contractor facilities and storage (an office-only use is allowed in compliance with the above section) and other outdoor storage;
- (iv) Fitness/health facilities that provide group activities or services;

¹⁷ The purpose of this section and the next section is to expand on the City's current definition of home occupations and give more guidance on what is appropriate and not appropriate as a home occupation.

- (v) Medical clinics, laboratories, or doctor's offices;
- (vi) Parking on, or dispatching from the site, any vehicle used in conjunction with the home occupation (e.g., landscaping services, house cleaning, taxi services, construction, etc.) with the exception of a vehicle owned and operated by the home owner or tenant;
- (vii) Uses that require explosives or highly combustible or toxic materials;
- (viii) Welding and machine shop operations;
- (ix) Retail uses with on-site sales;
- (x) Wood cutting businesses; or
- (xi) Other similar uses as determined by the Director of Public Services.

(5) Operating Standards

- (i) Permitted home occupations shall not create an adverse effect on the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties.
- (ii) The hours of operation for any home occupation shall be between the hours of 6:00 a.m. and 8:00 p.m. unless the home occupation is an office use or other use that does not require clients, employees, or other people to visit the dwelling.¹⁸
- (iii) No equipment shall be used which will create any dust, noise, odors, glare, vibrations or electrical disturbances beyond the lot.
- (iv) All storage of materials, goods, supplies or equipment related to the operation of a home occupation shall be inside the structure.
- (v) The residential building shall not be altered in any manner that is intended to change the residential appearance of the dwelling to a building with a commercial appearance. There shall be no separate entrance created solely for the home occupation.
- (vi) At least one resident of the dwelling shall operate the home occupation and there may be up to one employee on-site who does not reside at the dwelling.
- (vii) The operator of a home occupation in a rental unit shall be able to demonstrate that the property owner has authorized the use of the unit for a home occupation.
- (viii) No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupations.
- (ix) No additional off-street parking or loading facilities shall be provided beyond that traditionally used for residential uses. No additional driveways shall be established for the use of the home occupation.
- (x) There shall be no signs other than the wall signs allowed on a dwelling in Section [25-45](#).
- (xi) Traffic shall not be generated by such home occupation in significantly greater volume than would normally be expected in the residential neighborhood.

¹⁸ Currently the business hour limitations are for all home occupations but that typically does not apply to a person working an office job out of their home.

- (xii) There shall be no window display or outdoor storage or display of equipment, materials, or supplies associated with the home occupation.
- (xiii) Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises.
- (xiv) When any home occupation results in an undesirable condition interfering with the general welfare of the surrounding residential area, such home occupation may be terminated by the Director of Public Services.

(k) Nursery Schools or Day Care Centers (Children or Adults)

Nursery schools or day care centers may only be permitted as accessory uses to permitted and conforming nonresidential uses. Such use shall be located within the principal building except for any outdoor play areas approved through the special use permit process.

(l) Off-Site Parking

- (1) Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking facility.
- (2) No off-site parking space shall be located more than 1,000 feet¹⁹ from the primary use served, measured along the shortest, legal walking route. This route may include crossing a right-of-way provided the crossing is at a crosswalk.
- (3) The off-site parking facility shall adhere to the landscaping requirements for vehicular use areas in Article <>.
- (4) Off-site parking facilities in residential districts shall only provide parking for uses within the same residential zoning district and shall not provide parking for uses in adjacent zoning district.
- (5) Off-site parking facilities shall be used solely for the parking of passenger motor vehicles. No commercial repair work or service of any kind shall be conducted on said parking lot.
- (6) Only signage authorized in Section <> shall be permitted on the lot used for off-site parking.
- (7) Lighting shall comply with Section <>.
- (8) Each entrance to and exit from said parking lot shall be at least 20 feet distant from any adjacent property located in any residential district, except where ingress and egress to the parking lot is provided from a public alley or public way separating the residential areas from the proposed parking lot.
- (9) Off-site parking facility shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use or uses served, and the owner shall be bound by covenants filed of record in the office of the St. Louis County Recorder of Deeds, requiring the owner and the owner's heirs, successors and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

¹⁹ The current general parking regulations allow for off-site parking to be within 1,000 feet but for off-site parking facilities in residential districts, that distance is cut to 300 feet which will severely restrict the use. We suggest 1,000 feet for any off-site parking facility, measured along legal walking routes.

(m) Outdoor Displays and Sales (New)

Seasonal and permanent facilities for outdoor display and sales (e.g., garden supply sales, news and flower stands, and similar uses) that are accessory to another principal use may be permitted upon compliance with the following:

- (1)** Such uses shall not be placed within the street right-of-way except in the Downtown Study Area where such displays shall comply with the following:
 - (i)** The displays and/or sales must be temporary and removed from the sidewalk when the business is closed;
 - (ii)** There shall be a minimum sidewalk clearance of six feet; and
 - (iii)** The displays and/or sales shall comply with all other right-of-way requirements established in the Code of Ordinances.
- (2)** Such uses shall not be placed within an interior drive, or in a location which will interfere with the vision clearance requirements.
- (3)** Outdoor displays and sales shall be related to the principal use of the site and shall clearly be accessory and incidental to the principal use. Outdoor displays and sales shall be prohibited when the principal building is vacant.
- (4)** Outdoor displays and sales areas shall not cover an area more than 20 percent of the ground floor area of the principal building.
- (5)** Outdoor displays and sales areas shall be shown on the site plan application.
- (6)** Outdoor display and sales areas may be permitted in the all yards provided that the merchandise is displayed along the private sidewalk or walkway adjacent to the building.
- (7)** Outdoor display and sales areas shall be spaced a sufficient distance from the building, as dictated by the City of Kirkwood Fire Department, to satisfy all fire safety requirements.
- (8)** Any areas designated for outdoor display or sales shall be set back a minimum of 25 feet from any adjacent lot lines of lots used for residential purposes.
- (9)** The placement of the merchandise shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of five feet of the sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.
- (10)** The outdoor display and sales areas shall be maintained in good order and appearance.
- (11)** The outdoor display and sale of goods and products shall be limited to those goods and products that a customer can pick up and carry into the building for purchase. Larger items may be displayed for sale if in compliance with the outdoor storage requirements of Section [§ 25-45\(o\)](#).

(n) Outdoor Dining and Outdoor Seating

- (1)** Outdoor dining and outdoor seating areas shall be located on a private sidewalk, patio, deck, terrace, or other surface, adjacent to the principal building the dining is connected with. Outdoor dining and outdoor seating areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the seating area and the principal building.

- (2) Outdoor seating on public sidewalks may be permitted in accordance with Section <>²⁰.
 - (3) Outdoor dining and outdoor seating shall not be located within 10 feet of fire hydrants, fire department standpipe connections, fire escapes, bus stops, loading zones, mail boxes, or traffic signal stanchions.
 - (4) If no grade separation is provided between vehicular traffic and the outdoor dining or outdoor seating area, permanent railings or fencing shall be provided around the area. If the dining or outdoor seating area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required.
 - (5) If the outdoor dining or outdoor seating area is located on a sidewalk, the area shall be designed so there is a minimum of six feet of clearance adjacent to the dining or seating area to allow for safe pedestrian circulation. Such areas shall also not block any areas of ingress or egress from the principal building.
 - (6) Outside entertainment, whether by band, orchestra, instrument, musician, singer, radio, television, loudspeaker, microphone, recital or any other individual, group or mechanical device shall not be permitted for outdoor seating areas. Such activities may per permitted as part of an outdoor dining area if approved as part of the special use permit.
 - (7) Umbrellas and awnings that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.
 - (8) Outdoor tables, chairs, umbrellas, furniture and decorative items shall be of uniform design.
 - (9) Provision shall be made for appropriate lighting which will not disturb adjacent property or affect traffic on adjacent rights-of-way.
 - (10) Provisions are made for adequate litter and trash control, including the providing and maintenance of trash receptacles. The outdoor area shall be kept clean and free of debris at all times.
 - (11) For outdoor seating areas, the hours of use are limited from 6:00 a.m. to 12:00 midnight except in B-1 District, where it shall be limited from 7:00 a.m. to 10:00 p.m. For outdoor dining areas, the hours of use shall be approved as part of the special use permit.
 - (12) Enclosing outdoor dining or outdoor seating areas either by a permanent roof or to expand the existing structure shall meet all the requirements of a building within the applicable zoning district and shall require review as an expansion of the principal building, as required by this code.
- (o) Outdoor Storage and Bulk Sales²¹**
- (1) Outdoor storage and bulk sales areas shall be shown on the site plan.
 - (2) Areas devoted to outdoor storage shall be paved with asphalt or concrete and free of dust.

²⁰ We will cross-reference the provisions for seating on public rights-of-way, which are located outside of the zoning code.

²¹ The City did not have much by way of outdoor storage regulations for accessory uses so these are some common standards other communities have used.

- (3) Areas devoted to outdoor storage or bulk sales shall be located behind the front building line. The enclosed area shall be setback 25 feet from any lot line adjacent to a residential district and in no case shall the side and rear setback of the enclosed area be less than 10 feet.
- (4) Outdoor storage or bulk sales areas shall be screened by fencing, walls, or landscaping in accordance with Article <> (Landscaping).
- (5) If the screening needs to exceed eight feet in height to conceal the storage of materials, the screening shall consist of a wall or fence shall be constructed of materials similar to the principal building so that it appears to be an extension of the principal structure.²²
- (6) The above screening may be waived or reduced as part of the site plan review if it is determined that the storage or sales are adjacent to similar outdoor activities in the same business or industrial zoning district.

(7) Outdoor Storage of Vehicles and Equipment

The accessory outdoor storage of vehicles and equipment shall be an accessory use associated with a permitted use in those zoning districts where permitted pursuant to Table <> and shall comply with the provisions of Paragraphs <> through <> above as well as the following:

- (i) All stored vehicles or equipment shall be necessary to and customarily associated with the principal use.
- (ii) All vehicles or equipment shall be in an operable state. In no case shall inoperable vehicles be stored.
- (iii) All outdoor storage of vehicles and equipment shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition.
- (iv) All vehicles and equipment shall be stored in such a fashion as to be accessible to firefighting equipment at all times.
- (v) These standards shall not apply to the outdoor storage of vehicles and equipment when the storage or parking of such vehicles or equipment is a principal use of the lot (e.g., vehicles sales and leasing).

(p) Outdoor Vending Machines and Drop-Off-Boxes (New)

Outdoor vending machines and drop-off boxes for recycled goods, books, donations, etc., may be permitted when they comply with the following regulations:

- (1) No such use or facility shall be placed within the street right-of-way, within an interior drive, or in a location that will interfere with required site vision clearance requirements in Section <>.
- (2) The facility or equipment shall be maintained in good operating order and appearance.
- (3) Vending machines and drop-off boxes shall only be permitted in the B-3, B-4, B-5 and I-1 Districts.

²² We will include a graphic example of this kind of architectural screening.

- (4) Vending machines shall only be placed along the façade of the principal building with a maximum of one machine for every 50 feet of building frontage. See [Figure <>](#).



Figure <>: The above is an image of a vending machine that is appropriately located along the façade of the building.

- (5) Only one drop-off box shall be permitted on any single lot.
- (6) Drop-off boxes shall only be permitted in the side or rear yard.
- (7) The drop-off box container shall be emptied at least once every week. Containers that result in the overflow of donated goods shall be declared a nuisance and shall be removed immediately upon notification by the Director of Public Services at the expense of the property owner or business owner.
- (q) Playsets**
- (1) If a playset has more than 120 square feet of enclosed play area, the use shall be reviewed in the same manner as a “detached storage/utility sheds, gazebos, pool houses, greenhouses, and other similar buildings.”
- (2) Any playset with an enclosed area of less than 120 square feet shall be permitted in the rear yard. For corner lots, these smaller playsets may be permitted in the front yard of the secondary street frontage provided that the playset is setback a minimum of 10 feet from the lot line.²³ See Figure <> for an illustration of the location of the applicable front yards.
- (r) Retail Businesses²⁴**
- Retail businesses are permitted in all zoning districts where such uses are not principally permitted provided:
- (1) Such uses are an accessory use;
- (2) The uses are located completely within a principal building of a nonresidential use; and
- (3) The total floor area of accessory uses shall not exceed 15 percent of the total gross floor area of the principal building.

²³ This is a new provision that would allow small playsets to be located in the front yard of a corner lot that is along the secondary street.

²⁴ This would allow for coffee kiosks or bookstores in churches, the selling of manufactured goods on site in the industrial district, and other related uses.

(s) Satellite Dishes

- (1) Satellite dishes of one meter in diameter or less shall be exempt from the provisions of this article.
- (2) Satellite dishes shall be limited in residential districts to a maximum of one satellite dish per residential unit.
- (3) Building-mounted satellite dishes shall not exceed three feet above the maximum height of the building on which it is located.
- (4) Ground-mounted satellite dishes shall not exceed 12 feet above the adjacent ground level.
- (5) To the maximum extent feasible, the dish should be located in the side or rear yard.
- (6) Satellite dishes larger than one meter in diameter may be permitted if approved as a special use.²⁵

(t) Sports Equipment

Portable sports equipment such as basketball hoops, nets, goals, etc. shall not be located in rights-of-way or be so located as to require play in any right-of-way.

(u) Swimming Pools (Outdoors)²⁶

- (1) A swimming pool shall be intended and used solely by the occupants and guests of the principal use of the property on which it is located.
- (2) Above-ground swimming pools shall meet the setback requirements of the principal building on the lot, as established in Section <>. Above-ground swimming pools shall be defined as any pool where the water line is above grade and requires walls or a support system to contain the water.
- (3) In-ground swimming pools, where the water line is below grade, shall comply with the accessory use setbacks established in this section.
- (4) Any patio, terrace, deck, or other surface around a swimming pool shall be subject to the applicable standards for such patio, terrace, deck or other structure established in this section.

(v) Temporary Construction Structures

Temporary structures for construction operations may be permitted in any district if such structures are deemed necessary, provided:

- (1) The use of such structures shall be limited to offices, buildings for the storage of lumber, tools, equipment, and other building materials; and construction dumpsters. Such structures may also be utilized to accommodate the existing uses on a site while there is a valid building permit.

²⁵ The City currently allows parabolic antenna as large as 12-feet in diameter with a special use permit. Any satellite dish less than a meter has to be permitted in all cities. The provision for building-mounted parabolic antenna of up to 2.5 feet would fall under the one-meter rule.

²⁶ Our research shows that the City uses the International Building Code's standards for swimming pools, which should address common safety issues and fencing requirements so this section includes the provisions currently in the existing zoning code.

- (2) The temporary construction structure shall be placed on the same site as the related construction, to the maximum extent feasible. If the structure is proposed to be established on a separate lot, the applicant shall identify such location on the site plan application for the related construction activity and approval of such placements shall be required as part of the applicable site plan review.
- (3) All temporary structures shall be set back a minimum of 25 feet from the nearest occupied residential dwelling.
- (4) A temporary construction structure may be placed on the site up to two weeks prior to the start of grading or construction.
- (5) The structure shall not be located within a floodplain or in a location that will obstruct drainage flow nor shall they be placed or block a right-of-way.
- (6) The structure shall not block or prevent access to any fire hydrant.
- (7) All temporary structures for construction operations shall be removed within 30 days after the completion of work on the premises. In no instance shall a temporary construction structure be permitted for more than 18 consecutive months unless an extended time is approved for construction as part of the site plan review.
- (8) A proper building permit shall be required.

(w) Unenclosed Patios, Porches, and Decks

- (1) Unenclosed patios that do not extend more than three feet above grade are permitted in any yard provided they are set back a minimum of two feet from all lot lines.
- (2) Unenclosed porches, and decks that do not exceed one story in height may extend up to ten feet into the minimum front and rear yard setback requirement.
- (3) Patios, porches, and decks in the rear yard may have built-in grills or kitchen areas provided such use complies with any applicable building code requirements.
- (4) Patios, porches, and decks that have been enclosed with walls shall be considered a part of the principal structure and shall be subject to the site development standards of Section <>.²⁷

(x) Vestibules

An enclosed vestibule or porch that contains no more than 40 square feet may encroach into the front yard up to four feet.

²⁷ This means that someone can't build a deck and then expand on it to put up a roof and screened walls, etc. and still call it a deck.

Article VI: General Development Standards

§ 25-46. Measurements, Computations, and Exceptions

The following provisions shall establish the rules of measurement, computation, and any related exceptions, for all calculations required by this code.

- (a) **Distance Measurements (New)**
Unless otherwise expressly stated, distances specified in this code are to be measured as the length of an imaginary straight line joining those points.
- (b) **Percentages and Fractions (New)**
When a calculation or ratio established in this code results in a fractional number or percentage, any fraction less than one-half shall be rounded down to the new lower whole number and any fraction of one-half or more shall be rounded up to the next higher whole number. Any percentage of less than 0.5 shall be rounded down to the next lower whole number and any percentage of 0.5 or greater shall be rounded up to the next higher whole number. For measurements of linear feet, measurements shall be provided in decimal form to the nearest hundredth with the rounding rules described above applying.
- (c) **Lot Area Measurements (New)**
The area of a lot includes the total two-dimensional, horizontal surface area within the lot's boundaries.
- (d) **Lot Frontage Measurements (New)**
Lot frontage is the distance between the side lot lines measured along the right-of-way line as depicted in Figure <>.
- (e) **Lot Width Measurements (Existing A-140 Definitions)**
The dimension of a lot, measured between side lot lines on the front building line as depicted in Figure <>. Said provision is applied to the standard front building lines listed in [0](#) and [§ 25-49\(e\)](#) through [§ 25-49\(j\)](#), not those modified through [§ 25-48\(e\)](#) or [§ 25-49\(k\)](#).
- (f) **Lot Coverage Measurements (Revised A-140 Definitions)**
The percentage of lot area covered by all buildings or structures on the lot (footprint) divided by the lot area. Buildings include any structure or part of a structure covered by a roof, including, but not limited to, residences, unenclosed porches, garages, gazebos, sheds, breezeways, carports, etc. An area not to exceed 200 square feet of an unenclosed front porch shall be deducted from the lot area coverage. The area of lot coverage is calculated from the foundation footprint at grade of all buildings.
- (g) **Floor Area Ratio (FAR) Measurements (Revised A-140 Definitions)**
The total floor area of the building is determined by adding the area each of the stories divided by the total lot area as follows:
 - (1) Floor area for the first and full second floor shall be measured from the exterior of the building.
 - (2) Any area with a ceiling height greater than 15 feet shall be counted at 200%.
 - (3) All space above 5 feet in height in a half-story shall be counted at 100% if the space is conditioned or provides access through a permanent staircase.
 - (4) Attached garages, carports, or porte cochere shall be counted at 100% of the floor area.

- (5) Basement areas that are not defined as a story per [§ 25-46\(h\)](#) and unenclosed porches are excluded.
- (h) **Number of Stories (NEW)**
The number of stories shall not include basement areas except when said basement, excluding any basement-level parking areas as shown in figure <>, is more than 4 feet above the adjacent grade at any point along any street frontage as measured from the top of the foundation.
- (i) **Buildable Area Measurement(Current B-730(i))**
The area enclosed by the side, rear, and front setback lines.
- (j) **Building Height Measurements and Exceptions (Revised A-140 Definitions)**
 - (1) **R-1, R-2 R-3, R-4, R-MM Districts, and Single-Family Homes in R-5**
The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the building. This measurement shall include flat, mansard, gable, hip, and gambrel roofs, and all other architectural features of the building.
 - (2) **All Other Districts:**
The vertical distance measured from the average elevation of the proposed finished grade of the building to the highest point of the occupied space.
 - (3) **Height Exceptions (Revised)**
 - (i) The ordinary elevation of chimneys and flues may extend above the allowed building height as regulated by the building code.
 - (ii) Spires, steeples, or belfries not intended for human occupancy may exceed the maximum height listed in the underlying district when associated with a place of worship.
 - (iii) The height of telecommunications facilities, including antennas, poles, towers and necessary mechanical appurtenances, shall comply with <> Telecommunication Facilities and Antennas.
 - (iv) The height of wind energy turbines shall comply with <> Wind Energy Turbines.
- (k) **Setbacks, Yards, and Lot Type Requirements**
 - (1) **General Requirements**
Each structure shall comply with the front, side, and rear setbacks requirements of the applicable zoning district except:
 - (i) Fences in compliance with Chapter 5, Article IV.
 - (ii) Accessory structures in compliance with <>.
 - (iii) Signs in compliance with <>.
 - (iv) Use-specific setbacks in accordance with <>.
 - (v) As otherwise provided by this article.

(2) Measurements

Setbacks shall be measured from the applicable right of way line or lot line to the closest portion of the building. In computing the depth of a rear yard, where such yard opens onto an alley, one half of the alley width may be included as a portion of the rear yard.

(i) Interior Lots (NEW)

Location of front, rear, and side setbacks are shown in Figure <>.

(ii) Corner Lots (Existing)

Location of front, rear, and side setbacks are shown in Figures <> and <>.

- a. On a corner lot, there shall be a front yard on each street, except as provided for below.
- b. The rear yard of a corner lot shall be the side opposite the front yard of least street frontage
- c. In the R-3 and R-4 Districts, the front yard which is required along the narrower frontage is considered the primary front yard. The front yard which is required along the wider frontage is considered the secondary front yard. The minimum secondary front yard shall be equal to 20% of the lot width in R-3 and 30% of the lot width in R-4.

(iii) Double Frontage (Through) Lots (Existing B-730(e) and others)

On a through lot, the required front yard shall be provided on all lot lines that abut a street; however, the front setback on the frontage which the property is not addressed shall be the lesser of either the averaged setback or the non-averaged setback. The remaining lot lines not abutting a public right-of-way shall be considered as side yards. See Figure <>

(iv) Cul-de-Sac or Curved Street Lot

For a cul-de-sac lot or a lot abutting a curved street, the front yard setback shall follow the curve of the front property line (lot line). See Figure <>.

(v) Other Lot Configurations

Where there is an instance of a lot configuration not addressed, or where there is an atypical building orientation on any lot, the Director of Public Service shall have the authority to decide where front, rear, and side setbacks are required.

(I) Street Frontage Occupation (Existing 500.7)

When calculating the percentage of the street frontage occupied by a structure, any portion of the structure that is in compliance with the maximum front yard area requirement for the applicable district shall be included. If the requirements below do not allow for a driving lane to access a portion of the subject property behind the structure, the minimum frontage occupations requirement shall be adjusted as follows: properties that have frontage on only one street and/or public alleyway shall be permitted a twenty-two-foot-wide driving lane; properties that have frontage on two or more streets and/or public alleyways shall be permitted either a single twenty-two foot wide driving lane on one frontage or a twelve-and-one-half foot wide (twenty-foot-wide if designated for access by the Fire Department) driving lane on two frontages to allow a dedicated one-way entrance and dedicated one-way exit.

(m) Finished First Floor Height (Existing A-140)

The height of a finished first floor measured horizontally at the existing finished grade to the finished first floor at the center of the front foundation wall as depicted in Figure <>.

§ 25-47. General Development Standards

(a) Lot Width and Yard Areas (Existing 410.6)

No building or structure shall be erected or enlarged unless the following lot width and yard requirements are provided and maintained in connection with such building, structure, or enlargement, unless otherwise provided herein.

(b) Lot Frontage (Existing B-730(c)(g))

- (1)** All lots shall have at least 90% of the required minimum lot width as frontage on the right-of-way line except for lots with frontage on cul-de-sacs and turnarounds, which shall have at least 50% of the required minimum lot width as frontage on the right of way line.
- (2)** Lots of a flag configuration which could place a dwelling unit behind a dwelling unit shall not be platted. Lots which conform to [§ 25-47\(b\)\(1\)](#) above shall not be considered lots of a flag configuration.

(c) Permitted Encroachments in Residential Districts

- (1)** For structures which were legally constructed and contain a front yard, rear yard, or side yard setbacks which are not in conformance with this code: the existing front, rear, and/or side yard setbacks of the primary structure which are not in conformity shall be considered as the setbacks for the subject property for the purpose of additions, alterations, and expansions. For residential districts, in no case shall the front, rear, or side yard setbacks be less than five feet. In nonresidential districts, in no case shall the side or rear setback be less than the amount required in <> when abutting a residential district.
 - (i)** This subsection shall not prevent the repair of existing legal nonconforming encroachments, including replacement of exterior HVAC equipment or home generators
 - (ii)** Accessory structures in accordance with <>.
 - (iii)** Fences or walls are provided for in <>.

TABLE <> PERMITTED ENCROACHMENTS IN RESIDENTIAL DISTRICTS			
Encroaching Feature	Maximum Allowed Encroachment [1]		
	Front [2]	Side	Rear
Cantilevered interior space such as bay windows no more than 16 feet in width	24 inches		36 inches
Unenclosed porch or deck not more than one story in height or paved terrace	10 feet		10 feet
Enclosed vestibule containing not more than 40 square feet (in multi-family districts only)	4 feet		
Roof overhangs, sills, belt courses, cornices and other architectural features	30 inches	30 inches	30 inches
Fireplaces and chimneys, ground level or cantilevered		24 inches	36 inches
Air conditioning units or home generators		Against the foundation wall or as close as possible to the foundation wall as approved by the city	Against the foundation wall or as close as possible to the foundation wall as approved by the city
NOTES: [1] See § 25-47(e) for exceptions to encroachments. [2] In R-5, front encroachments shall not include cantilevered interior space such as bay windows.			

(d) Permitted Encroachments in Nonresidential Districts (REVISED)³²

TABLE <> PERMITTED ENCROACHMENTS IN NONRESIDENTIAL DISTRICTS			
Encroaching Feature	Maximum Allowed Encroachment		
	Front [1] [2]	Side	Rear
Unenclosed porch and uncovered porches not more than one story in height or paved terrace	10 feet		10 feet
Enclosed vestibule containing not more than 40 square feet	4 feet		
Roof overhangs, sills, belt courses, cornices and other architectural features	30 inches	30 inches	30 inches
Fireplaces and chimneys		24 inches	24 inches
Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers		5 feet	5 feet
NOTES: [1] No permitted front yard encroachments in B-2 [2] § 25-47(e) for exceptions to encroachments.			

(e) Exceptions to Encroachments (Revised)

- (1) When side yard lot reductions provided for in [§ 25-48\(f\)](#) are utilized, side yard encroachments are strictly limited to roof overhangs, sills, belt courses, cornices and other architectural features as provided for in Table <> within the first five feet for the R-4 and R-5 Districts and within the first eight feet for the R-3 District. No other encroachments will be permitted within these restricted areas.
- (2) If [§ 25-48\(e\)](#) or [§ 25-49\(k\)\(1\)](#) dictate the front setbacks, encroachments are permitted as provided for in Table <>.
- (3) For additions, alterations, and expansions to non-conforming structures, when nonconforming setbacks are considered the required setbacks, the only encroachments permitted are roof overhangs, sills, belt courses, cornices and other architectural features as provided for in Table <>. Additionally, unenclosed porches or decks not more than one story in height or paved terraces are permitted to encroach 10 feet measured from the conforming setback line.

§ 25-48. Site Development Standards for Residential Zoning Districts

This section, including the accompanying tables, establishes the minimum site development standards for residential zoning districts.

³² Increased encroachments for roof overhangs, sills, etc. for commercial only.

(a) Lot Area and Lot Width

TABLE <>: LOT AREA AND LOT WIDTH FOR RESIDENTIAL ZONING DISTRICTS		
District/Use	Minimum Lot Area (Square Feet) [1]	Minimum Lot Width (Feet) [1] [2]
R-1	43,560	150
R-2	25,000	125
R-3	15,000	100
R-4	7,500	60
R-5	7,500	60
R-6	See § 25-48(b)	120
R-MM ³⁴	7,500	60
NOTES: [1] Larger lot areas or widths may be required by a use specific standard. See <> [2] Corner lots shall be 10% wider on both street frontages than the required zoning width to permit appropriate setbacks (Existing B-730(f))		

(b) Minimum Lot Area for R-6 Planned Multi-Family Residential Districts (Existing 320.5)

When a building is erected on a lot, such lot shall have an area of not less than 800 square feet per family; for each successive story above four stories, the lot area requirement for such story shall be reduced 100 square feet per family, so that the requirement for the fifth story is 700 square feet per family, for the sixth story, 600 square feet per family, etc., up to and including the 10th, 11th and 12th stories for which the lot area requirement shall be 200 square feet per family.

(c) Building Area of a Lot (Existing B-730(i))

In single-family zoning districts, the building area of a lot, shall accommodate a rectangle with front and back each equal to ½ the zoning district lot width requirement and the sides equal to the following: R-1, 36 feet; R-2, 32 feet; R-3, 28 feet; R-4, 24 feet.

³⁴ Note: this is the new “missing middle” zoning district. New standards listed throughout this section.

(d) Front, Side, and Rear Setbacks

TABLE <>: SETBACKS FOR RESIDENTIAL ZONING DISTRICTS			
District/Use	Minimum Setbacks (Feet) [1]		
	Front Yard [2]	Side Yard (Each Side) [3][4]	Rear Yard
R-1	60	25	50
R-2	50	20	45
R-3	40	12	35
R-4	35	8	30
R-5 Multi-family Two-family Row Dwellings	35	12 or 50% of height, whichever is greater	30
R-5 All Other Uses	35	8	30
R-6	40	25	30
R-MM	35	8	30

NOTES:
[1] For self-storage facilities in non-industrial districts, the minimum structure setback from public right-of-way directly adjacent to the subject site is 300 feet.
[2] Modifications to front yard setbacks for infill projects shall be determined based on [§ 25-48\(e\)](#). Does not apply to the R-6 District.
[3] When a lot of record having a width less than otherwise required by code is to be used for a single-family dwelling, the side yard requirements for each side of the building shall be determined based on [§ 25-48\(f\)](#).
[4] Places of worship shall require a 40' side yard setback in R-1 and a 30' side yard setback in R-2, R-3, R-4, or R-5.

(e) Front Yard Modifications

In blocks with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted using one of the following methods:

- (1) The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots as depicted in Figure <>.

$$\text{Front Setback} = (A+B)/2$$

- (2) The front yard setback for a lot located between an improved lot on one side and vacant lot on the other side, or between an improved lot and a street, or between a vacant lot and a street, shall be determined by averaging the front yard setbacks of every improved lot within the distances shown in table <>, beginning from the property line of subject lot, in the same block and on the same street frontage as depicted in Figure <>.

$$\text{Front Setback} = (A+B+C)/3$$

TABLE <>: AVERAGING DISTANCE FOR FRONT YARD MODIFICATIONS IN RESIDENTIAL ZONING DISTRICTS	
District	Averaging Distance (Feet) [1]
R-1	500
R-2	400
R-3	350
R-4	200
R-5	300
R-MM	300

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

Block frontage is <1,000 feet in length

If the front setback of C is equal to or more than twice: $(A+B+D+E+F)/5$

(f) Side Yard Modifications

When a lot of record having a width less than otherwise required by [§ 25-48\(a\)](#) is to be used for a single-family dwelling, the side yard requirements for each side of the building shall meet the standards shown in table <>.

TABLE <>: SIDE YARD MODIFICATIONS IN RESIDENTIAL ZONING DISTRICTS	
District	Side Yard Setback (Each Side) (Feet)
R-1	17% of lot width, but not less than 12 feet
R-2	17% of lot width, but not less than 12 feet
R-3	New Construction: 20% of lot width or 12 feet, whichever is smaller Additions: 12% of lot width, but not less than 8 feet ³⁹

³⁹ Formerly listed as 12 feet or 20% of lot width, whichever is smaller. Changes here reflect recommendations made by staff and Planning and Zoning Commission.

TABLE <>: SIDE YARD MODIFICATIONS IN RESIDENTIAL ZONING DISTRICTS	
District	Side Yard Setback (Each Side) (Feet)
R-4	13% of lot width, but not less than 5 feet ⁴⁰
R-5	13% of lot width, , but not less than 5 feet
NOTES: When side yard modifications listed in this table are utilized, additional restrictions on permitted encroachments apply. See § 25-47(e).	

(g) Height Standards

TABLE <>: HEIGHT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS		
District/Use	Infill Finished First Floor Height	Maximum Building Height
R-1		35 feet or 2.5 stories
R-2		35 feet or 2.5 stories
R-3	See § 25-48(h)(1)	35 feet or 2.5 stories
R-4	See § 25-48(h)(1)	35 feet or 2.5 stories
R-5 Multi-family Two-family Row Dwellings	See § 25-48(h)(1)(iii)	35 feet or 3 stories
R-5 All Other Uses	See § 25-48(h)(1)(iii)	35 feet or 2.5 stories
R-6		See § 25-48(k)
R-MM	See § 25-48(h)(1)	35 feet or 3 stories

(h) Infill Finished First Floor Height and Grade Adjustment (REVISED 420.6, 430.6, 440.6)

(1) In the R-3, R-4, and R-MM Districts:

- (i)** The maximum finished first floor height for new residential structures for an interior lot located between two improved lots shall be determined by averaging the two existing finished floor heights of the structures on either side of the subject lot. Said average shall be determined using the method described for finished first floor heights per § 25-46(m).

⁴⁰ Formerly listed simply as 5 feet for both R-4 and R-5. This lists a sliding scale that gradually reduces setbacks based on how non-conforming the lot is. 13% was chosen based on the ratio of setback required for a standard size lot. With this figure, a lot wouldn't reach the minimum of 5 feet unless it was approximately 38 feet wide.

- (ii) The maximum finished first floor height for new residential structures located between an improved lot on one side and vacant lot on the other side or between an improved lot and a street or between a vacant lot and a street shall be determined by averaging the existing finished first floor heights of every improved lot within 200 feet, beginning from the property line of subject lot, in the same block and on the same street frontage. For corner lots, the measurement shall be taken along both frontages and the more restrictive of the two averages shall apply.
 - (iii) However, when the maximum finished first floor height for a new residential structure is calculated to be less than 24 inches, the maximum finished first floor height for the new residential structure may be set to 24 inches. If the maximum first floor height for the new residential structure would still result in any portion of the new foundation being below the minimum requirements of the adopted Building Code, a grade adjustment of up to 12 inches may be added to the maximum finished first floor height.
- (2) In the R-5 District for lots less than 15,000 square feet:
 - (i) The maximum finished first floor height for new structures for an interior lot located between two improved lots shall be determined by averaging the two existing finished first floor heights of the structures on either side of the subject lot.
 - (ii) The maximum finished first floor height for new structures located between an improved lot on one side and vacant lot on the other side or between an improved lot and a street or between a vacant lot and a street shall be determined by averaging the existing finished first floor heights of every improved lot within 200 feet, beginning from the property line of subject lot, in the same block and on the same street frontage. For corner lots, the measurement shall be taken along both frontages and the more restrictive of the two averages shall apply.

(i) Lot Coverage

TABLE <>: LOT COVERAGE FOR RESIDENTIAL ZONING DISTRICTS			
District (Lot Size)	Number of Stories	Lot Coverage (%) [1]	Lot Coverage (Square Feet)
		Whichever is greater	
R-1, R-2, R-3, and R-4 (7,500 sf or less)	2 or more	30	1,750
	1.5 or less single family dwelling only	35	
R-1, R-2, R-3 and R-4 (More than 7,500 sf)	2 or more	25	2,250
	1.5 or less single family dwelling only	30	2,625
R-MM		40	
R-5 District		40	
NOTES: [1] Single-family homes in the R-5 and R-MM Districts shall be subject to the maximum lot coverage based on lot size, not the district maximum of 40% ⁴¹			

(j) Floor Area Ratio⁴²

TABLE <>: FLOOR AREA RATIO FOR SINGLE FAMILY DWELLING UNITS [1] [2] IN RESIDENTIAL ZONING DISTRICTS⁴³		
Lot Size or District (Square Feet)	Ratio	Square Feet
		Whichever is greater
10,000 or less	0.35	2,250
More than 10,000 but less than 20,000	0.30	3,500
20,000 or more	0.25	6,000
NOTES: [1] This table only applies to single-family dwelling units [2] See § 25-48(k) for restrictions in R-6 Planned Development Districts		

⁴¹ As discussed with the committee, this would put single family homes in the multi-family district on a level playing field with all other single-family properties in the city.

⁴² Proposed new measurement system for FAR discussed in § 25-46(g).

⁴³ This table reflects a change that single-family homes in R-5 and R-MM will also be subject to FAR (just like other single-family properties), which is not currently the case.

(k) Floor Area Ratio and Height for R-6 Planned Development Districts (Existing 320.5)

- (1) There shall be a maximum floor area ratio of 1.5, except that where the building is set back from one or more of the required yard lines, the floor area of such building may be increased by one square foot for each one square foot of area left open within the portion of the lot bounded by the required front side and rear yards specified in <> provided that in no event shall a building exceed 12 stories or 125 feet in height, above grade.

(l) Garage Design (Revised 400.9, 410.9, 420.10, 430.10)

This section applies only to attached residential garages which have the vehicle entry facing the front yard; and for the purposes of this subsection, on a corner lot, the front yard shall only be the frontage of least dimension.

- (1) The width of an attached garage with an entrance facing the front yard shall not exceed 55% of the overall width of the façade of the principal structure (inclusive of the garage.)
- (2) Only one sidewall of the residential portion of the structure shall extend beyond the sidewall of the attached garage.
- (3) The front face of an attached garage shall not project beyond the face of the residential portion of the house unless the garage is adjacent to a porch, in which case it may project up to 8 feet.

(m) Number of Principal Buildings on a Single-Family Lot (NEW)

Every building shall be located on a lot. There shall be no more than one principal building on one single-family lot.

(n) Minimum Distance between Main Buildings (Existing 440.7(5))⁴⁵

In the R-5 District, where more than one multifamily dwelling building or row dwelling building is erected on a single lot, the minimum distance between main buildings shall be as follows:

TABLE <> DISTANCE BETWEEN PRIMARY STRUCTURES IN R-5			
	Front (Feet)	Side (Feet)	Rear (Feet)
Front	50 plus an additional 10 for each building more than 2 stories	30	70
Side	30	20	30
Rear	70	30	50

⁴⁵ Please note that we're recommending removing 440.9 Dwelling Standards, which stipulates minimum UNIT sizes for various products in the R-5 district.

§ 25-49. Site Development Standards for Nonresidential Zoning Districts

This section, including accompanying tables, establishes the minimum site development standards for all nonresidential zoning districts.

(a) Applicability

The standards in this section apply to all nonresidential properties. Additional and/or modified standards for those properties which lie within the study area of the 2018 Downtown Master Plan and Parking Study (herein after referred to as the Downtown Study Area), can be found in [§ 25-50](#).

(b) Setbacks, Height, and Floor Area Ratio

TABLE <>: HEIGHT AND FLOOR AREA RATIO FOR NONRESIDENTIAL ZONING DISTRICTS		
District/Use	Maximum Building Height [1]	Floor Area Ratio
B-1	25 feet or 2 stories	
B-2	40 feet; For mixed-use development see § 25-49(c)	
B-3		2.0
B-4		2.5
B-5		
I-1	35 feet or 3 stories	
NOTES:		
[1] For exceptions to height in the industrial district, please see § 25-49(d) .		

(c) Height for Mixed-use Development

When a building in the B-2 district is part of a mixed-use development, the height shall not exceed 60 feet, subject to approval by the City Council as part of a site plan review. Architectural features may be permitted above the height limitations provided that the space above the maximum height is not occupied, not used for storage, and is approved by the City Council as part of a site plan review.

(d) Exceptions for Height in Industrial District

The following may be permitted to exceed maximum heights listed for the industrial district only upon approval of a Special Use Permit:

- (1) Chimneys, cooling towers, elevator bulkheads, stacks, tanks, or other necessary mechanical appurtenances, extending not more than 20 feet above the roofline of a structure.
- (2) Monuments, ornamental towers, or spires, extending not more than 80 feet above grade.
- (3) Mixing plants/towers extending not more than 35 feet above grade.

(e) Setbacks for B-1 District

(1) Front Yard

- (i) All buildings and structures shall have a front yard depth of at least 35 feet
- (ii) On a block with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted as per [§ 25-49\(k\)](#).

(2) Side Yard

A side yard is only required when said yard abuts a residential dwelling district, or when an alley separates said yard and a residential dwelling district. In that case, the side yard shall be equal to that required in the abutting residential district.

(3) Rear Yard

All buildings and structures shall have a rear yard depth of at least 25 feet.

(f) Setbacks for B-2 District

(1) Front Yard

No front yard shall be required.

(2) Side Yard⁴⁶

A side yard is only required when said yard abuts a residential dwelling district, or when an alley separates said yard and a residential dwelling district. In that case, the side yard shall be equal to 50% of the building height, but in no case less than 10 feet.

(3) Rear Yard

No rear yard shall be required.

(g) Setbacks for B-3 District

(1) Front Yard

- (i)** All buildings and structures shall have a front yard depth of at least 50 feet.
- (ii)** On a corner lot, the required front yard shall be provided on each street side of such corner lot if both are major streets. If the side street is a secondary street, a front yard of 35 feet shall be provided on said secondary street.
- (iii)** On a block with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted as per [§ 25-49\(k\)](#).

(2) Side Yard⁴⁷

A side yard is only required when said yard abuts a residential dwelling district, or when an alley separates said yard and a residential dwelling district. In that case, the side yard shall be equal to ½ the front yard required in the abutting residential district, however, the side yard need not exceed 20 feet.

⁴⁶ Currently the provision for being across from an alley is only listed in B-1. We have added it to B-2 and B-3 as well for discussion.

⁴⁷ Currently the provision for being across from an alley is only listed in B-1. We have added it to B-2 and B-3 as well for discussion.

(3) Rear Yard

(h) All buildings and structures shall have a rear yard depth of at least 25 feet. Setbacks for B-4 District (current 530.7)

- (1)** On sites greater than 65,340 square feet, no structure, except for that portion built entirely below grade with no exposed wall, shall be closer than 50 feet to the front, side or rear property line. However, a structure four stories or less in height may be built to within 40 feet of the front property line and within 25 feet of the side and rear property lines if the development plan for such structure is approved by the City Council.
- (2)** On sites of 65,340 square feet or less, the building lines specified in [§ 25-49\(h\)\(1\)](#) above may be modified subject to review by the Planning and Zoning Commission and approval by the City Council as part of a specified total development plan.

(i) Setbacks for B-5 District

- (1)** A structure, except for that portion built entirely below grade with no exposed wall, shall not be closer than 50 feet to the front, side or rear property line, except that a structure four stories or less in height may be built to within 40 feet of the front property line and within 25 feet of the side and rear property lines if the development plan of such structure is approved by the City Council after receiving a recommendation from the Planning and Zoning Commission. Such requirements shall apply to the entire B-5 parcel as a whole and shall not apply to subdivided parcels or smaller parcels comprising less than the entire approved B-5 development plan parcel.
- (2)** Modifications to the building line requirements may be reviewed by the Planning and Zoning Commission and approved by the City Council as part of a specified B-5 development plan.

(j) Setbacks for I-1 District

(1) Front Yard

- (i)** All structures shall have a front yard depth of at least 35 feet.
- (ii)** No yard shall be required for those portions of lots which adjoin railroad rights-of-way.
- (iii)** On a block with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted as per [§ 25-49\(k\)](#).

(2) Side Yard

- (i)** All buildings and structures shall have side yard widths of at least 15 feet.
- (ii)** All buildings and structures on lots adjacent to residential zoning districts shall be located so as to provide side yard widths of at least 35 feet adjacent to such residential zoning districts
- (iii)** No side yard shall be required for those portions of lots which adjoin railroad rights-of-way.

(3) Rear Yard

- (i)** All buildings and structures shall have rear yard depths of at least 20 feet.
- (ii)** All buildings and structures on lots adjacent to residential zoning districts shall be located so as to provide rear yard depths of at least 35 feet adjacent to such residential zoning districts.

- (iii) No yard shall be required for those portions of lots which adjoin railroad rights-of-way.

(k) Front Setback Modifications—Infill

- (1) In the B-1, B-3, and I-1 Districts, on a block with more than 40% of the frontage developed, the depth of the front yard setback shall be adjusted as described below.
 - (i) The front yard setback distance for an interior lot located between two improved lots shall be determined by averaging the front yard setbacks of the two improved lots as depicted in Figure <>

$$\text{Front Setback} = (A+B)/2$$

- (ii) The front yard setback for a lot located between an improved lot on one side and vacant lot on the other side, or between an improved lot and a street, or between a vacant lot and a street, shall be determined by averaging the front yard setbacks of every improved lot within 200 feet in the same block and on the same street frontage as depicted in Figure <>.

Right-of-Way

- (iii) When non-conforming setbacks are considered as the required setbacks, restrictions on permitted encroachments apply. See [§ 25-47\(e\)\(2\)](#).
- (2) In the B-1 District, when lots or tracts of land within this district are adjacent to and adjoining lots in a residential zoning district, all having the same frontage, there shall be established the same front yard setback for all of the frontages as has been established in the abutting "R" dwelling district.

(l) Minimum Lot Area and Minimum Lot Width (Revised)

- (1) In the B-3 District, the minimum lot area shall be 10,000 square feet and the minimum lot width shall be 80 feet, except as otherwise required herein.
- (2) In the B-5 District, the minimum lot area is 2.5 acres.
- (3) Unless otherwise stipulated in [§ 25-49\(l\)](#) or <> Use-specific Regulations, there shall be no minimum lot areas or widths for nonresidential districts.

(m) Number of Buildings on a Lot (Existing 500.6, 500.7, 520.7, 530.6, 540.5, 600.6)

- (1) More than one commercial or institutional structure may be erected upon a single lot, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such structure, nor shall there be any change in the intensity of use requirements. In the B-4 and B-5 Districts, the yard and open spaces required shall not apply to subdivided parcels or smaller parcels comprising of less than the entire approved development plan parcel.

§ 25-50. Additional and/or Modified Site Development Standards for Properties Within the Downtown Study Area

This section, including accompanying tables, establishes additional and/or modified minimum site development standards for nonresidential zoning districts that lie within the study area of the 2018 Downtown Master Plan and Parking Study (herein after referred to as the Downtown

Study Area). References to Phase 1 and Phase 2 Streets are those identified in the Thoroughfare Hierarchy Map located in said plan. The development standards listed in [0](#) apply unless specifically modified in this section.

(a) Front Setbacks

TABLE <>: FRONT YARD SETBACKS FOR NONRESIDENTIAL ZONING DISTRICTS WITHIN THE DOWNTOWN STUDY AREA⁵⁰				
District/Use	Phase 1 Street (Feet)		Phase 2 Street (Feet)	
	Minimum	Maximum	Minimum	Maximum
B-1	0	20	0	51
B-2	0	20	0	51
B-4	0	20	0	51
B-5	0	20	0	51
I-1	0	20	0	51
NOTES: Said front yard requirements shall not preclude other zoning requirements of this code, including, but not limited to, pedestrian accommodation and landscaping requirements.				

(b) Street Frontage Occupation

- (1) On a Phase 1 Street, a minimum frontage occupation requirement of 90% shall be provided.
- (2) On a Phase 2 Street, a minimum frontage occupation requirement of 75% shall be provided.

(c) Height (Revised)

- (1) On a Phase 2 Street, no building shall exceed the lesser of 4 stories or 50 feet, except when the building is part of a mixed-use development. If the building is part of a mixed-use development, the building shall not exceed the lesser of 6 stories or 75 feet when approved by the City Council as part of a Site Plan Review per <>.

⁵⁰ B-3 was omitted intentionally as it doesn't have any modifications for land being within the downtown study area.

§ 25-51. Energy Generation Devices (Current A-1050)

(a) Purpose⁵¹

This section promotes the safe, effective, and efficient use of solar energy systems and small wind energy systems installed to reduce the on-site consumption of utility supplied energy while protecting the health, safety, and welfare of adjacent and surrounding land uses. Both solar energy systems and small wind energy systems are permitted as accessory uses as prescribed in each zoning district. These systems may be used to provide supplemental energy to the site on which they are installed or to sell to a utility company only. In no district shall solar energy systems and small wind energy systems be permitted as a principal use on site.

(b) Applicability

This section applies to all solar energy systems and small wind energy systems installed within the City of Kirkwood after the effective date of this code. Any upgrades, modifications or changes that materially alter the size or placement of an existing solar energy systems or small wind energy system shall comply with the provisions of this section.

(c) Solar Energy Systems

Solar energy systems shall be installed and maintained in conformance with the following requirements as well as all other applicable codes and ordinances.

(1) Roof-Mounted Systems

- (i)** All solar energy systems that are mounted on the roof of an existing or proposed structure shall not exceed the maximum allowable height for the structure on which it is mounted within the zoning district which it is located.
- (ii)** All solar energy systems shall be mounted within two feet of the roofline and shall not project beyond the peak or edge of the roofline when mounted on a sloping roof as depicted in Figure <>.
- (iii)** All solar energy systems mounted on flat roofs shall not exceed a height of five feet above the roofline and shall be screened from view from the right-of-way by a parapet or setback from the horizontal edge of the roofline a minimum of 10 feet as depicted in Figure <>.

(2) Freestanding Systems

- (i)** All freestanding solar energy systems shall meet the required principal structure side and rear setbacks.
- (ii)** In no case shall freestanding solar energy systems be located within a required front yard or in front of the principal structure on site.
- (iii)** Freestanding solar energy systems shall be of a height less than the principal structure on site and shall not exceed 16 feet in height, whichever is less.
- (iv)** All exterior electrical and/or plumbing lines shall be buried below the surface of the ground.

⁵¹ Code currently prohibits solar energy systems and small energy systems from being as a principal use on a site. Question for the committee: do we want to change this, at least potentially for the industrial district?

- (3) Awning solar energy systems may be installed on the front, side or rear of a principal or accessory structure on site when the awnings meet the required setback for architectural features in the district which they are installed.
 - (4) Solar energy systems may be installed on the side or rear of a principal or accessory structure on site when mounted within two inches and flush against the outside wall subject to [§ 25-51\(c\)\(2\)](#).
 - (5) To accommodate for emerging solar energy systems which may not be developed at the time of adoption of this code, the Director of Public Services may approve additional systems not mentioned herein when the applicant can prove that the system is in conformance with the spirit and intent of this code and does not negatively affect the health, safety and welfare of the public.
 - (6) All solar energy systems shall be designed and located in order to prevent reflective glare toward any structure on adjacent properties as well as adjacent street rights-of-way.
 - (7) Any and all nonfunctioning and/or damaged solar panels or equipment shall be dismantled and removed. If nonfunctioning and/or damaged solar panels or equipment are not dismantled and removed, it shall be considered to be a violation in accordance with <> Violations and Penalties, of this code.
- (d) **Small Wind Energy Systems**
Small wind energy systems shall be installed and maintained in conformance with the following requirements as well as all other applicable codes and ordinances.
- (1) **Roof-Mounted Systems**
All small wind energy systems that are mounted on the roof of an existing or proposed structure shall not exceed the maximum allowable height for the structure on which it is mounted within the zoning district which it is located.
 - (2) **Freestanding Systems**
 - (i) Minimum lot size. Small wind energy systems shall only be installed on parcels with a minimum lot size of three acres or more.
 - (ii) All freestanding small wind energy systems shall be set back a distance equal to its total height from all property lines and any overhead utility lines. For the purpose of this subsection, the term "total height" shall mean the vertical distance from finished grade to the tip of the wind generator blade when the tip is at its highest point.
 - (iii) Freestanding small wind energy systems shall not exceed 35 feet in total height.
 - (iv) In no case shall freestanding small wind energy systems be located within a required front yard or in front of the principal structure on site.
 - (v) All exterior electrical lines shall be buried below the surface of the ground.
 - (3) All small wind energy systems shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
 - (4) All signs, other than the manufacturer's identification and appropriate warning signs, shall be prohibited on small wind energy systems.
 - (5) Any and all nonfunctioning and/or damaged small wind energy systems or equipment shall be dismantled and removed. If nonfunctioning and/or damaged small wind energy systems or equipment are not dismantled and removed it shall be considered to be a violation in accordance with <> Violations and Penalties, of this code.

§ 25-52. Outdoor Lighting (Current A-1040)

(a) Purpose

This section provides development standards intended to strike a balance of safety and aesthetics by providing lighting regulations that protect drivers and pedestrians from glare and reduce, to reasonable limits, the trespass of artificial lighting onto neighboring properties and public or private rights-of-way.

(b) Applicability

The following lighting regulations apply to all new outdoor lighting fixtures or the replacement of existing outdoor lighting fixtures within the City of Kirkwood unless specifically listed in [§ 25-52\(c\)](#).

- (1) Any new building or addition equal to or greater than 50% of the square footage of the original structure's footprint or renovation equal to or greater than 50% of the appraised value of the improvements on the property as determined by the St. Louis County Assessor's Office shall require the entire site to comply with the requirements of this section. If the development includes more than one parcel, this section shall apply to each parcel individually and not the development as a whole.
- (2) All uses which require a special use permit, whether lighting is existing or proposed, will be subject to review by the Planning and Zoning Commission and City Council. Outdoor lighting shall include all exterior lighting, including lights mounted onto a building or structure.

(c) Exemptions

The following shall be exempt from the regulations of this section:

- (1) Lighting required by the FAA for air traffic control and warning purposes;
- (2) Flagpole vertical uplighting;
- (3) Lighting in the public or private right-of-way installed by a governmental agency for traffic control;
- (4) Lighting installed by a governmental agency for the health, safety, and welfare of the public;
- (5) Electronic or backlit signage (all signage is subject to [Signs](#));
- (6) Temporary lighting as part of an approved temporary outdoor use permit;
- (7) Temporary lighting for emergency repair; and
- (8) Lighting for single-family residential uses and their accessory structures.

(d) General Standards

(1) Submittal Requirements

All applications submitted to the Planning and Zoning Commission that are subject to [§ 25-52\(b\)](#), shall submit a lighting plan in conjunction with the submittal application. All other applications that are not subject to Planning and Zoning Commission review yet are subject to [§ 25-52\(b\)](#), shall submit a lighting plan in conjunction with the administrative site plan review and building permit application. The lighting plan shall be signed and sealed by a registered design professional and include the following:

- (i) Plans indicating the location and type of all illuminating devices, fixtures, lamps, and supports on the premises.

- (ii) Description of the illuminating devices, fixtures, lamps, supports, and other devices, including, but not limited to, catalog cut sheets by manufacturers and drawings.
- (iii) Photometric plan indicating the point-by-point footcandle (fc) layout of a site extending a minimum of 10 feet beyond all property lines or until lighting levels in compliance with this section are indicated.

(2) Pole-Mounted Fixtures

- (i) Pole-mounted lighting fixtures located equal to or less than 20 feet from a property line shall not exceed 16 feet in height, measured from the finished grade to the top of the fixture. The height of any pedestals upon which pole fixtures are placed shall be included in the overall height measurement.
- (ii) Pole-mounted lighting fixtures located greater than 20 feet from a property line shall not exceed 24 feet in height, measured from the finished grade to the top of the fixture. The height of any pedestals upon which pole fixtures are placed shall be included in the overall height measurement.
- (iii) Pole-mounted lighting fixtures for outdoor performance areas, sport and recreation facilities, and playfields shall not exceed 80 feet in height, measured from the finished grade to the top of the fixture. The height of any pedestals upon which pole fixtures are placed shall be included in the overall height measurement.

(3) Canopies

Canopies, including, but not limited to, service stations and convenience stores, over store and office fronts, marquees and projecting overhangs, exterior over driveways and building entrances, and pavilions and gazebos, shall provide recessed fixtures that incorporate a lens cover that is either recessed or flush with the bottom surface of the canopy or a surface-mounted fixture incorporating a flat glass that provides full cutoff.

- (4) Except for outdoor performance areas, sport and recreation facilities, and playfields, all lighting fixtures installed shall be at a minimum full cutoff where no light is permitted at or above a horizontal plane at the bottom of the fixture.
- (5) Where topographical issues exist, which may cause light to cast on neighboring properties, additional shielding requirements may be required.
- (6) The Planning and Zoning Commission or City Council may require lighting to be dimmed or connected to a motion detector during certain hours of the day depending on the proposed use.
- (7) Lighting intended to illuminate building elevations and landscaping shall shine directly onto the intended surface.
- (8) Minimum illumination levels shall be maintained in accordance with [§ 25-52\(e\)](#).
- (9) Prior to the issuance of an occupancy permit, an as-built photometric plan signed and sealed by a registered design professional shall be submitted to Director of Public Services for verification of compliance with the approved lighting plan.
- (10) All lighting fixtures shall be installed and maintained in conformance with the approved lighting plan.

(e) Illumination Levels

Site lighting shall be in compliance with the following illumination levels:

(1) Minimum Illumination Levels (Revised)

- (i) The average illumination level for parking lots shall be a minimum of 1.0 footcandles (fc) at finished grade.
- (ii) The average illumination for pedestrian routes, refuge areas, sidewalks, etc. shall be a minimum of 2.0 footcandles (fc) at finished grade.

(2) Maximum illumination levels

- (i) The maximum level of light cast off site shall be less than or equal to 0.5 footcandles (fc) at finished grade unless otherwise specified herein.
- (ii) The maximum illumination level of light cast off site onto properties with single-family residential uses shall be less than or equal to 0.1 footcandles (fc) at finished grade.
- (iii) The maximum illumination level under canopies shall be less than or equal to 42 footcandles (fc) at finished grade.

§ 25-53. Dumpster and Trash Receptacle Enclosure Areas (Current 220.7(11))

All outside storage areas for the storage of trash and/or recyclables shall be screened. Trash dumpster screening shall be constructed of sight proof fence or wall of similar material as the main building and not less than six feet in height with latching gates of similar or complementary materials to completely enclose the trash dumpster.

Article VII: Architectural Standards

Article VIII: Landscaping and Buffering Standards

Article IX: Parking, Access, and Mobility Standards

§ 25-54. Purpose. (New)

§ 25-55. Applicability. (Revised A-1000.1)

§ 25-56. General Standards.⁵²

§ 25-57. Off-Street Parking Requirements

§ 25-58. Vehicle Queuing Lanes

§ 25-59. Bicycle Parking Requirements (Existing 1000.6)

§ 25-60. Off-Street Loading Requirements. (Revised A-1010)

§ 25-61. Sidewalks, Trails, Pedestrian Connections, and Bike Paths

⁵² Unless otherwise noted, much of this language is drawn from the existing Section A-1000.2 (7).

Article X: Subdivision Design Standards

§ 25-62. Purpose. (New)

§ 25-63. Applicability. (New)

§ 25-64. Conformity to Plans, Zoning, and Engineering Standards. (Revised B800)

§ 25-65. Installation of Public Improvements. (New)

§ 25-66. Required Inspections and Fees. (Existing B-900)

§ 25-67. Performance Guarantees for Public Improvements. (New)

§ 25-68. General Subdivision Design Standards.

§ 25-69. Privately Developed Facilities. (Existing B-870)

§ 25-70. Lots. (Revised B-730)

§ 25-71. Blocks. (Revised B-720)

§ 25-72. Nonresidential Subdivisions. (Revised B-760)

§ 25-73. Streets and Thoroughfares. (Revised B-810)

§ 25-74. Sidewalks, Walkways, Trails, and Bikeways.³⁸

§ 25-75. Easements. (Revised B-740)

§ 25-76. Site Grading/Environmental Protection. (Revised B-805)

§ 25-77. Utilities and Other Infrastructure.

§ 25-78. Backfill Under Pavements. (Existing B-845)

Article XI: Telecommunications

§ 25-79. Purpose. (New)

This section provides for the appropriate location and deployment of wireless communications infrastructure to better serve the citizens and businesses of the City of Kirkwood. The purpose of this section is to:

- (a) Minimize adverse visual impacts of wireless facilities and support structures through careful design, siting, and landscaped screening;
- (b) Maximize the use of existing and new facilities so as to minimize the need to construct new or additional facilities; and
- (c) Comply with applicable federal and state laws, including the Federal Telecommunications Act of 1996 and the Uniform Wireless Communications Infrastructure Deployment Act 67.5090 et seq RSMO.

§ 25-80. General Requirements.

The following general requirements shall apply to all telecommunications infrastructure permitted in all zoning districts:

(a) Antenna Support Structures Over 150 Feet in Height

Any antenna support structure which is proposed to be in excess of 150 feet in height is not permitted unless authorized by the Planning and Zoning Commission for co-use or other considerations such as to provide personal wireless services, or reasonably required for public safety communications of a governmental entity sharing the antenna support structure.

(b) Lighting

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

(c) Advertising

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

(d) Design

- (1) Unless subject to the requirements of the FAA or any applicable state or federal agency, towers shall maintain a galvanized steel finish or be painted a neutral color consistent with the natural or built environment of the site.
- (2) Antenna equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site, and may also be brick or other masonry material as required by the Planning and Zoning Commission or by the City Council in the case of a special use permit.
- (3) Antennas attached to a building or antenna support structure shall be painted a color identical to, or compatible with, the surface to which they are mounted.

- (4) All towers shall be surrounded by a landscape strip of not less than 10 feet in width, and planted with materials which will provide a visual barrier of a minimum height of 6 feet. Evergreen trees should be at least 6 feet tall, and deciduous trees at least 2.5 inches in caliper. Said landscape strip shall be exterior to any security fencing. In instances where a landscape strip is not practical or feasible, a minimum 6-foot high decorative fence or wall in lieu of the landscape strip may be approved by the Director of Public Services.
 - (5) All towers shall be set back from any adjacent residentially zoned property a distance equal to the height of the tower, and shall maintain setbacks as are required by the zoning district regulations.
 - (6) Ground anchors of all guyed towers shall be located on the same parcel as the tower and meet the setbacks of the applicable zoning district.
 - (7) Vehicle or outdoor storage on any antenna support structure site is prohibited.
 - (8) On-site parking for periodic maintenance and service shall be provided at all antenna or antenna support structure locations. Access to and parking for antenna or antenna support structure locations shall be provided on a paved surface.
- (e) **Shared Use**⁵³
- (1) In order to maximize the use of an existing or proposed wireless tower, the tower owner shall, prior to the issuance of any building permit to alter or modify any tower existing on the effective date of this code, provide to the City a written and notarized statement agreeing to make said tower available for use by others subject to reasonable technical limitations and at a fair market rate. The willful and knowing failure of a tower owner to agree to shared use or to negotiate in good faith with potential users shall be cause for the withholding of future permits to the same tower owner to install, build or modify antennas or antenna support structures within the City.
 - (2) Any new tower at a height of 60 feet above ground level or higher shall be designed and constructed to accommodate at least one additional user unless a larger number is indicated by the City. In addition, the tower shall be designed and constructed to reasonably accommodate use by the City and made available at a fair market value for space. The willful and knowing failure of the owner of a tower built for shared use to negotiate in good faith with potential users shall be cause for the withholding of future permits to the same owner to install, build or modify antennas or antenna support structures within the City.
- (f) **Modifications (New)**⁵⁴
- (1) Changes to existing antennas, towers, or structures that are not "substantial modifications" as defined herein shall only be reviewed for conformance with applicable building permit requirements, National Electric Safety Codes, and recognized industry standards for structural safety, capacity, reliability and engineering, without any Commission review.
 - (2) For purposes of this section, a "substantial modification" is defined as the mounting of an antenna on a tower or other structure which, as applied to the structure as it was originally constructed:

⁵³ Reference to fair market value for co-location was added to reflect the State law

⁵⁴ New, sets parameters for when a Building Permit or Facilities Permit is needed

- (i) Increases the existing vertical height of the tower or structure by:
 - a. More than 10 percent; or
 - b. The height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or
- (ii) Involves adding an appurtenance to the body of a tower or structure that protrudes horizontally from the edge of the existing tower or structure more than 20 feet or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable);
- (iii) Involves the installation of more than the standard number of new outdoor equipment cabinets for the technology involved, not to exceed four new equipment cabinets; or
- (iv) Increases the square footage of the existing equipment compound by more than 1,250 square feet.
- (v) Substantial modifications require a facilities permit, which shall be subject to Section <> hereof.

(g) Limitation on Regulations and Commission Exceptions (NEW)⁵⁵

- (1) In considering a facilities permit application, the Planning and Zoning Commission may grant an exception to any such regulation based on a clear showing that the exception is reasonably required to provide communications services. Such showing shall be supported by the opinion of a telecommunications consultant hired by the City at the expense of the applicant. The opinion of the consultant shall include a statement explaining why alternatives are not available or viable.
- (2) Nothing in this article shall be construed or deemed to supersede any applicable State or Federal law or any applicable regulation issued by a State or Federal agency, including, but not limited to, the Missouri Public Service Commission and the Federal Communications Commission. In the event of any conflict between such laws or regulations and this article, the applicable State or Federal law or regulation shall apply.

§ 25-81. Permitted Use.

Upon receipt of the appropriate building permit, the following are allowed:

- (a) The attachment of additional antennas or the replacement of antennas to any tower or the addition or replacement of antenna equipment shelters existing on the effective date of this code or subsequently approved in accordance with these regulations, provided that additional antenna equipment shelters or cabinets are located within the existing antenna support structure site.
- (b) The mounting of antennas in or on any existing building or structure (such as a water tower, church steeple, billboard, utility pole, or tower used for high voltage electric lines) provided that the building or structure has been in service for at least one year in a functional use prior to application and provided that the height of the antenna does not exceed 20 feet from its mounting.

⁵⁵ Sets exceptions allowed through new Facilities Permit process

- (c) The installation of antennas on buildings or structures or the construction of an antenna support structure on land owned by the City of Kirkwood following the approval of a lease agreement by the City Council.
- (d) The maintenance without alteration of any antenna support structure existing on the date of the enactment of this code. Modification to an existing antenna support structure, including but not limited to the replacement or addition of any antennas or equipment shelters, shall be subject to all the provisions of this code.

§ 25-82. Required Permits. (NEW)⁵⁶

(a) General Requirements

- (1) Applications for a facilities permit shall be filed in lieu of a building permit application.
- (2) Applications for building or facilities permits under this article shall be accompanied by an application fee approved by the City to cover the cost of processing the application, any deposit otherwise required by law for the proposed work, and any other amounts due to the City from the applicant, including but not limited to prior delinquent fees, costs, and any loss, damage, or expense suffered by the City because of the applicant's prior work in the City or for any emergency actions taken by the City, but the Director of Public Services may modify this requirement to the extent the Director of Public Services determines any such fees to be in good-faith dispute or beyond the ability of the applicant to control.
- (3) If the regulations of this article would prohibit facilities at a specified location, the applicant may request an exception from the Planning and Zoning Commission as provided in <>. The City's form application shall include an exception option by which the applicant shall provide the reasons for the requested exception.
- (4) Applications shall be reviewed and acted upon within the timeframes provided in this article. The City acknowledges that Federal law or regulations may prescribe deadlines not consistent with those included in this article, but the certainty of such Federal deadlines cannot be effectively ascertained and prescribed herein. It shall be incumbent upon the applicant to inform the City of any desire to utilize Federal deadlines and to explain the applicability of same at the time of application. The City's form application shall include a Federal deadline option.

(b) Facilities Permits

- (1) The construction, installation, and substantial modification of antennas and towers shall require a facilities permit approved by the Planning and Zoning Commission.
- (2) Applications for facilities permits shall be made to the Director of Public Services on forms provided by the Director. Prior to filing an application, the applicant shall meet with the Director of Public Services to determine the information to be required in support of the application.
 - (i) Each application shall be accompanied by payment of a fee established by the City Council.

⁵⁶ This sets out a two-pronged approach to permitting, in order to reflect the State regs. The Facilities Permits section generally replaces the no longer allowed special use permit, and reflects the shot-clock elements for new or substantially modified facilities. The Building Permit section complies with the shot-clock elements for co-location and repair/minor modification.

- (ii) Each application shall include a copy of a lease, letter of authorization or other agreement from the property owner evidencing applicant's right to pursue the application.
- (3) Facilities permit applications shall be accompanied by detailed construction and installation plans demonstrating proof of compliance with the regulations of this article and the need for any exception to any such regulation. An application proposing a tower shall include a detailed site plan based on a closed boundary survey of the host parcel indicating:
 - (i) All existing and proposed improvements, including buildings, drives, walkway, parking areas and other structures,
 - (ii) The location of trees on such parcel,
 - (iii) The general location of the improvements on all adjoining properties,
 - (iv) Public rights-of-way, the zoning categories of the host parcel and adjoining properties, the location of buffer and landscape areas, hydrologic features, and the coordinates and height of the proposed facility,
 - (v) Any statements or information required by this article, and
 - (vi) Such other information as the Director of Public Services reasonably deems appropriate.
- (4) After receiving an application to construct a new tower, the Planning and Zoning Commission shall have one hundred twenty (120) days from the date of the application's submission, or such additional time as may be agreed to by an applicant and the Director of Public Services, to approve or deny the application and to advise the applicant in writing of its final decision.
 - (i) Within 30 days of receiving the application, the Director of Public Services shall review the application and, if the application does not conform with the submission requirements of this section, shall notify the applicant in writing of the specific deficiencies in the application which, if cured, would make the application complete.
 - (ii) Upon receipt of a timely written notice that an application is deficient, an applicant may take 30 calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within 30 calendar days, the application shall be reviewed and processed within 120 calendar days from the initial date the application was received. If the applicant requires a period of time beyond 30 calendar days to cure the specific deficiencies, the 120 calendar days' deadline for review shall be extended by the same period of time.
 - (iii) If the Commission fails to act on an application within the 120 calendar days' review period, or an extension thereof due to an incomplete application, or within such additional time as may be agreed to by an applicant and the Director of Public Services, the application shall be deemed approved.
 - (iv) A party aggrieved by either the Director's final decision or the purported failure to timely act may bring an action for review in the St. Louis County Circuit Court, without filing an appeal to the City Council as permitted by Section <> hereof. If the party elects to appeal to the City Council, any time period for the filing for court review shall run from the date of the City Council's decision.

(c) Criteria for Facilities Permit Approval

The Planning and Zoning Commission shall consider the evidence submitted with the facilities permit application as well as additional information presented by the applicant or others. Before approving a facilities permit the Commission shall consider and determine the following, as may be applicable, based on the evidence submitted:

- (1) Whether the application complies with the requirements of this article;
- (2) Whether an existing tower or structure may meet the applicant's requirements;
- (3) Whether a tower has sufficient structural strength to support the applicant's proposed antenna and required screening;
- (4) Whether the proposed antenna would experience or cause signal interference with other telecommunication facilities;
- (5) Whether the fees, costs, or other contractual terms required by the owners of existing towers within the required geographic area of the applicant, or to retrofit the existing structures, are reasonable;
- (6) Whether the design of the antenna, tower, or structure maximally reduces visual degradation; and
- (7) Whether the proposed antenna or tower minimizes the number and size of similar facilities that will be required in the geographic area surrounding the proposed site.

(d) Review, Determination and Appeal

- (1) The Planning and Zoning Commission shall review and determine applications as provided in Section <>.
- (2) A decision to deny an application shall be based upon substantial evidence that shall be made a part of the written record of the meeting at which a final decision on the application is rendered.
- (3) Any aggrieved person may, within 15 days of the decision for which redress is sought, file with the City Council a written request for reconsideration and appeal of any decision of the Planning and Zoning Commission under this article. The written request must set forth in a concise manner the decision being appealed and all grounds known to the appellant as to wherein and why the decision is allegedly in error. The request for reconsideration and appeal must be filed with the City Clerk within the time specified above. A copy of the request and any supporting documents or materials filed by aggrieved party must be served by the aggrieved party on the applicant (if different than the aggrieved party) by certified U.S. Mail, return receipt requested, within three days of filing with the City Clerk. Proof of service on the applicant must be filed with the City Clerk within six days of filing of the request. The City Council may consider the appeal on the record of the prior decision by the Planning and Zoning Commission or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances.
- (4) Any person aggrieved by the City Council's final decision may bring an action for review in the St. Louis County Circuit Court.

(e) Building Permits

- (1)** Antennas not requiring a facilities permit, and proposals for tower or structure co-use or proposed replacements for already-permitted towers or antennas, when such proposals do not constitute substantial modifications as defined in Section <> hereof, shall be subject to a building permit only. Such building permit applications shall only be reviewed for conformance with applicable building permit requirements, National Electric Safety Codes, and recognized industry standards for structural safety, capacity, reliability and engineering, without any Planning and Zoning Commission review.
- (2)** An application for a building permit shall be filed with the Director of Public Services and shall include, among other information that may be required, the following:

 - (i)** Detailed construction and installation plans demonstrating proof of compliance with Section <>;
 - (ii)** Site plan of the parcel upon which the installation is to be made showing the specific location of the proposed installation and all improvements on the parcel;
 - (iii)** A copy of a lease, letter of authorization or other agreement from the property owner evidencing applicant's right to pursue the application; and
 - (iv)** Such other information reasonably required by the Director of Public Services.
 - (v)** After receiving a building permit application, the Director of Public Services shall have 45 days from the date of the application's submission, or such additional time as may be agreed to by an applicant and the Director, to approve or deny the application and to advise the applicant in writing of a final decision.
 - (vi)** Within 15 days of receiving the application, the Director shall review the application and, if the application does not conform with the submission requirements of this section, shall notify the applicant in writing of the specific deficiencies in the application which, if cured, would make the application complete.
 - (vii)** Upon receipt of a timely written notice that an application is deficient, an applicant may take 15 calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within 15 calendar days, the application shall be reviewed and processed within 45 calendar days from the initial date the application was received. If the applicant requires a period of time beyond 15 calendar days to cure the specific deficiencies, the 45 calendar days' deadline for review shall be extended by the same period of time.
 - (viii)** If the Director fails to act on an application within the 45 calendar days' review period, or an extension thereof due to an incomplete application as provided in this section, or within such additional time as may be agreed to by an applicant and the Director, the application shall be deemed approved.
 - (ix)** A party aggrieved by either the Director's final decision or the purported failure to timely act may bring an action for review in the St. Louis County Circuit Court, without filing an appeal to the City Council as permitted by Section <> hereof. If the party elects to appeal to the City Council, any time period for the filing for court review shall run from the date of the City Council's decision.

§ 25-83. Tower Removal.

Any tower, or the upper portion of any tower, which is occupied by inactive antennas for a period of twelve months shall be considered a public nuisance and the tower and support structure, including footings, where appropriate, be removed at the owner's expense. Removal of upper portions of a tower manufactured as a single object shall not be required. In instances where more than one antenna is collocated on the tower, it shall not be considered inactive until all antennas are no longer in use.

Article XII: Nonconformities

§ 25-84. § 25-54. Purpose. (New)

§ 25-85. § 25-55. General Provisions.

§ 25-86. § 25-56. Determination of Legal Nonconformity Status. (New)

**§ 25-87. § 25-57. Nonconformities and Variances or Administrative Waivers.
(New)**

§ 25-88. § 25-58. Nonconforming Uses.

§ 25-89. § 25-59. Nonconforming Structures and Sites. (New)

§ 25-90. § 25-60. Nonconforming Lots of Record. (New)

§ 25-91. § 25-61. Repair and Maintenance. (New)

Article XIII: Administration, Enforcement, and Penalties

Article XIV: Definitions⁵⁷

Accessibility Ramps Permanent or portable ramps utilized to provide a disable person with accessibility to a structure.
Accessory Dwelling Units A separate, complete dwelling unit that has its own kitchen, sleeping area, and full bathroom facilities. Accessory dwelling units may be contained within or added on to a principal dwelling, be part of an accessory building (e.g., attached to a garage), or the accessory dwelling unit may be a separate structure.
Amateur Radio Towers and Antennae A system of cables, electrical conductors, insulators, metallic or non-metallic tubing, poles, reflecting discs, rods, wires, or similar objects used for transmission or reception of radio signals or electromagnetic waves for amateur radio service.
Basement That portion of a structure which is wholly or partly below grade.
Building Any structure, of more or less permanent construction, having one or more floors and a roof supported by columns or walls, which is completely enclosed and is designed or intended for the shelter or protection of persons, animals or property. When separated by party walls, each portion of such building shall be considered a separate structure.
Building, Accessory A subordinate building detached from, but located on the same lot as, the principal or main building, the use of which is incidental and accessory to the principal building or use and which is constructed subsequent to the principal building or main use of the land.
Clubhouses A building used for the meeting, recreation, or social activity designed to accommodate and serve the residents of a subdivision or development to which the use is associated with and is privately owned or jointly owned by property owners through a homeowners' association or other non-profit organization and open only to bona fide members and guests of such organization.
Detached Garages and Carports An accessory building primarily intended for and used for the enclosed storage or shelter of private motor vehicles of the owner or occupant of the principal building that is detached from the principal building. While a garage is completely enclosed by walls and a garage door, a carport is a roofed structure, with a foundation, that provides space for the parking of vehicles and enclosed on not more than three sides.
Detached Storage/Utility Sheds, Gazebos, Pool Houses, Greenhouses, and other Similar Accessory Buildings An accessory building, other than a detached garage, that is typically uses for storage of items utilized by the occupants of the dwelling or a building used for the general enjoyment of the occupants including, but not limited to, gazebos, structural trellises, storage sheds, etc. Such term shall not include "playsets". Such buildings may contain noncommercial workshops utilized by the resident.

⁵⁷ The definitions in this article are only partial and reflect the terminology used within the articles that are subject to the current review.

Drive-Through Facilities

Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. The term "drive-through" shall also include "drive-up" and "drive-in" facilities.

Drop-Off Boxes

Drop-off boxes are small collection facilities where recyclable materials, clothing, or household goods are accepted from the public (e.g., neighborhood recycling stations and thrift store collection boxes).

Family Day Care Homes

A family home in which family-like general supervision is given to six children or less, not related to the day-care provider, for any part of the 24-hour day. No practice of medicine or nursing care is permitted in a family day-care home.

Group Day Care Homes

A group day-care home is a family home in which family-like care is given to at least seven, but not more than ten children, not related to the day-care provider, for any part of the 24-hour day. No practice of medicine or nursing care is permitted in a group day-care home.

Home Occupations

A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling and is incidental and secondary to the residential use of the lot and does not adversely or perceptively affect the character of the lot or surrounding area.

Nursery Schools or Day Care Centers (Children or Adults)

A facility administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours, by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any portion of the 24-hour day in a building other than the child's own home. This use may include, but is not limited to, after school programs, office day care centers, and facilities accessory to institutional uses. This term may also include adult day care centers where persons other than children, family members, or guardians care for adult for a portion of a 24-hour day in a building other than the adult's home.

Outdoor Dining

Areas on private sidewalks, patios, or other unenclosed areas, excluding vehicular use areas, that are designated for outdoor seating for more than 12 people where patrons may be served food and beverage for on-site dining.

Outdoor Displays and Sales

The placement of small products or materials for sale outside of a retail or wholesale sales establishment.

Outdoor Seating

Areas on private sidewalks, patios, or other unenclosed areas, excluding vehicular use areas, that are designated for outdoor seating for 12 or fewer people where patrons may be served food and beverage for on-site dining.

Outdoor Storage and Bulk Sales

The keeping, storage, or sales of any goods, material, merchandise, or vehicles in the same place for more than 24 hours in an area that is not fully enclosed by a structure. This may include areas established for the sale of large and/or bulk items.

Outdoor Vending Machines and Drop-Off Boxes

Vending machines are small machines that are capable of accepting money in return for the automatic dispensing of goods (e.g., drink machines, snack machines, video machines).

Playsets

Recreational equipment for children that may include, but is not limited to, swings, slides, monkey bars, and play enclosures.

Satellite Dishes

A parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals.

Sport Courts (Outdoor)

An area of a yard that is permanently improved and surfaced for the recreational use of the property owner for games such as tennis, basketball, racquetball, and similar sports or sports.

Sport Equipment

Small accessory basketball hoops, sports nets, goals, etc. not related to a "sport court" by which occupants of the principal use can play sports.

Structure

Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, freestanding signs, and other similar items. Garden decorations, outdoor furniture, and paved surfaces shall not be deemed structures.

Structure, Accessory

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Swimming Pools (Outdoors)

Any pool, lake, or open tank, primarily used for swimming or wading, not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one foot. Such use shall be designed, used, and maintained for swimming or bathing by the residents, tenants, or occupants of the subject property.

Temporary Construction Structures

A mobile home, trailer, dumpster, or similar temporary structure that is used as an office, storage, or collection of debris in conjunction with a construction project.

Unenclosed Patios, Porches, and Decks

Platforms and paved surfaces that may or may not be under roof and which do not have walls, including screened walls, but may have knee walls or railings. Patios may be attached to a building or may stand-alone on a lot where as unenclosed porches and decks typically extend out as an attachment to a house or other building.

Use

Any purpose for which a lot, building, or other structure, or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Use, Accessory

A use located on the same lot with the principal use of building or land, but incidental and subordinate to and constructed subsequent to the principal use of the building or land.

Use, Principal or Main

The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted, permitted with standards, or conditionally permitted.

Vestibules (Enclosed)

An antechamber, hall, or lobby of a multi-family dwelling that has a roof and may be fully enclosed with walls or unenclosed with knee walls or railings.