

Ray Hochhaus

ZONING ORDINANCE
OF THE
CITY OF ANCHORAGE
ALASKA

ENACTED APRIL 20, 1965



CITY OF ANCHORAGE, ALASKA
ORDINANCE NO. 11-65

AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 23 OF THE CODE OF ORDINANCES OF THE CITY OF ANCHORAGE, ALASKA TO PROVIDE ZONING REGULATIONS IN ACCORDANCE WITH SECTION 4.9 OF THE CITY CHARTER.

THE CITY OF ANCHORAGE ORDAINS:

Section 1. That Chapter 23 of the Code of Ordinances of the City of Anchorage is hereby repealed and re-enacted to read as follows:

Chapter 23
ZONING

Sec. 23-1. TITLE. This chapter shall be known and cited as the "Zoning Ordinance of the City of Anchorage."

Sec. 23-2. AUTHORITY, ENACTMENT. This ordinance is enacted pursuant to the authority, for the purposes, and in accordance with the requirements of Section 4.9 of the Municipal Charter of the City of Anchorage.

Sec. 23-3. DIVISION INTO DISTRICTS; PROVISIONS CONCERNING ZONING MAP OF THE CITY OF ANCHORAGE.

(A) The City of Anchorage is hereby divided into use districts as shown on the Zoning Map of the City of Anchorage (hereinafter called Zoning Map) which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. The City Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk under the following words: "This is to certify that this is the City Zoning Map incorporated by reference in Section 23-3 of the Zoning Ordinance of the City of Anchorage, as passed on April 20, 1965.

Sec. 23-3 (Continued)

- (B) If, in accordance with the provisions of this ordinance, changes are made in use district boundaries or other matter portrayed on the City Zoning Map, such changes shall be made promptly after the amendment has been passed by City Council.

The territory affected by the amendment shall be shown on the map with a serial number and entry shall be made in a tabular column recording the serial number of the amendment, the ordinance number, the date of adoption of the ordinance, and the signature of the City Clerk attesting the recording of the change. No such change shall become effective until such entry shall have been made on the City Zoning Map.

- (C) Regardless of the existence of purported copies of the City Zoning Map which may from time to time be made, the City Zoning Map which shall be located in the office of the administrative official shall be the final authority as to the current zoning status of lands, water areas, buildings and other structures in the City.

In case the City Zoning Map becomes damaged, destroyed, lost, or difficult to interpret by reason of the nature or number of changes and additions, the City Council may by ordinance adopt a new City Zoning Map which shall supersede the prior City Zoning Map. The new City Zoning Map may correct drafting and other errors or omissions in the prior City Zoning Map, but no such correction shall have the effect of amending the original City Zoning Map. Such new City Zoning Map shall be marked "This City Zoning Map adopted by ordinance of the City Council of the City of Anchorage on April 20, 1965, supersedes the City Zoning Map adopted April 20, 1965," which statement shall be signed by the Mayor and attested by the City Clerk. Unless the prior City Zoning Map is lost or has been totally destroyed, the map or significant parts thereof remaining after partial destruction shall be preserved,

*Wallace Ray
Zoning Ordinance
1964
1st Edition
Revised 1968*

I N D E X

<u>SECTION</u>	<u>SUBJECT</u>	<u>PAGE</u>
23-1	TITLE	1
23-2	AUTHORITY, ENACTMENT	1
23-3	DIVISION INTO DISTRICTS; PROVISIONS CONCERN- ING ZONING MAP OF THE CITY OF ANCHORAGE	1
23-4	APPLICATION OF REGULATIONS	4
23-5	DEFINITIONS	5
23-6	USE DISTRICTS	16
23-7	PLI: PUBLIC LANDS & INSTITUTIONS DISTRICTS	17
23-8	R-1; R-1A: SINGLE FAMILY RESIDENTIAL DISTRICTS	20
23-9	R-2; R-2A: TWO-FAMILY RESIDENTIAL DISTRICTS	26
23-10	R-3; R-4: GENERAL & CENTRAL RESIDENTIAL DISTRICTS	29
23-11	D-2; D-3; D-4: RESIDENTIAL DEVELOPMENT DISTRICTS	35
23-12	R-0: CENTRAL RESIDENTIAL & OFFICE DISTRICTS	40
23-13	B-1: NEIGHBORHOOD COMMERCIAL DISTRICTS	42
23-14	B-2: CENTRAL BUSINESS DISTRICT	47
23-15	B-2H: CENTRAL BUSINESS DISTRICT, HEAVY COMMERCIAL DISTRICT	51
23-16	B-3: GENERAL AND STRIP COMMERCIAL DISTRICTS	54
23-17	I-1: LIGHT INDUSTRIAL DISTRICT	58
23-18	I-2: HEAVY INDUSTRIAL DISTRICT	61

<u>SECTION</u>	<u>SUBJECT</u>	<u>PAGE</u>
23-19	SUPPLEMENTARY DISTRICT REGULATIONS:	
	(A) Visibility at Intersections	63
	(B) Accessory Buildings	63
	(C) Erection of More than One Principal Structure on a Lot	63
	(D) Height Regulation	64
	(E) Fall-Out Shelters	64
	(F) Buildings to Have Access	65
	(G) Off-Street Parking Requirements	65
	(H) Off-Street Loading Requirements	68
	(I) Residual Lot Area	73
	(J) Projections into Required Yards	73
	(K) Signs	74
23-20	NONCONFORMING USES:	
	(A) Intent	75
	(B) Undue Hardship	75
	(C) Nonconforming Lots of Record	75
	(D) Nonconforming Structures	76
	(E) Moving Nonconforming Structures	78
	(F) Discontinuance of Nonconforming Structures and Uses	78
	(G) Cessation of Automobile Wrecking Yards, Salvage Yards and Junk Yards	79
	(H) Mineral Resources Operations	79
	(I) Nonconforming Parking, Loading, Signs or Other Characteristics of Use	80
23-21	ADMINISTRATION AND ENFORCEMENT:	
	(A) Administrative Official	81
	(B) Violations	81
	(C) Permits Required	81
	(D) Certificate of Compliance for New, Altered, or Nonconforming Uses	81
	(E) Construction and Use to be as Provided in Applications, Plans, Permits, and Cer- tificates of Compliance	82
	(F) Board of Adjustment	82
	(G) Procedure on Appeals alleging error in Enforcement of Interpretation	84
	(H) Procedure on Special Exceptions	85
	(I) Procedure in Appeals for Variances	88

<u>SECTION</u>	<u>SUBJECT</u>	<u>PAGE</u>
	(J) Appeals from Board of Adjustment	91
	(K) Procedure for Zoning Amendments	91
	(L) Fees , Charges , and Expenses	95
	(M) Complaints , Remedies and Penalties	96
	(N) Minimum Requirements of Ordinance	97
23-22	SPECIAL PROVISIONS:	
	(A) Emergency Legislative Powers of Council	98
	(B) Special Exceptions by Direct Council Action	98
	(C) Continuity of Prior Special Exceptions and Variances	98
	(D) City Manager Regulations	99

Sec. 23-3 (Continued)

together with all records of City Council regarding its adoption and amendment.

- D. The following rules for interpretation of use district boundaries on the City Zoning Map shall apply:
1. District boundaries indicated as approximately following the center lines of right of way lines of streets, highways or alleys shall be construed to follow such center lines of right of way lines.
 2. District boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 3. District boundaries indicated as approximately following city limits shall be construed as following such city limits.
 4. In the event of changes in city limits removing territory from the city, district boundaries shall be construed as moving with city limits unless specific provision is made otherwise. In the event of annexation of new areas to the city, such areas shall be considered to be in the R-1 district unless specific provision is made otherwise in the annexation ordinance.
 5. District boundaries indicated as approximately following railroad tracks shall be construed to be midway between the main tracks unless specific provision is made otherwise.
 6. District boundaries indicated as approximately following center lines of stream beds or other bodies of water shall be

Sec. 23-3 (Continued)

construed to follow such center lines.

7. District boundaries indicated as approximately parallel to or extensions of features indicated above shall be so construed and at such distance therefrom as indicated on the City Zoning Map. Distances not specifically indicated on the City Zoning Map shall be determined by the scale of the map.
8. Where natural or man-made features actually existing are at variance with those shown on the City Zoning Map, or in other circumstances not covered above, the Board of Adjustment shall interpret the district boundaries.
9. Where a district boundary divides a lot which was in single ownership when divided by these regulations or an amendment thereto, the Board of Adjustment may, as a special exception, permit the extension of the regulations to include the remaining portion of the lot.

Sec. 23-4. APPLICATION OF REGULATIONS. Except as hereinafter provided:

- (A) No building, structure, land or water area shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, repaired or structurally altered except in conformity with the regulations specified in this ordinance for the district in which it is located.
- (B) No building or other structure shall hereafter be erected or altered:
 1. To exceed the height restrictions of this ordinance;

Sec. 23-4 (Continued)

2. To accommodate or house a greater number of families than permitted by this ordinance;
 3. To occupy a greater percentage of lot area than permitted by this ordinance;
 4. To leave narrower or smaller rear yards, front yards, side yards, space between portions of buildings or structures, or other open space than required by this ordinance.
- (C) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building or structure for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required of any other building or structure, except as specifically provided herein.
- (D) No yard, open space, space between portions of buildings or structures, or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements herein set forth.
- (E) Within each district, the regulations set by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of building, structure, land, or water area.

Sec. 23-5. DEFINITIONS.

For the purpose of this ordinance certain terms or words used herein shall be interpreted or defined as follows:

Words used in the present tense include the future tense.

Sec. 23-5. (Continued)

The singular number includes the plural.

The word "person" includes a corporation as well as an individual.

The word "lot" includes the word "plot" or "parcel".

The term "shall" is always mandatory.

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".

- (1) Accessory, as applied to a use or a building or a structure, means customarily subordinate or incidental to, and located on the same lot with a principal use, building or structure.
- (2) Administrative Official or Zoning Official is a City Official appointed by the City Manager to administer and enforce the Zoning Ordinance.
- (3) Alley. A permanent service right-of-way providing a secondary means of access to abutting properties.
- (4) Alteration. Any change, addition or modification in construction or occupancy; or the moving from one location or position to another.
- (5) Apartments, High Rise. A multiple family dwelling of six or more stories above the ground level of the principal entrance.
- (6) Apartment. Any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which contains dwelling units for three or more families living independently of each other.

Sec. 23-5 (Continued)

- (7) Area, building. The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings or structures exclusive of steps.
- (8) Arterial Street. Any street designated Arterial Class II or greater in the official City Street and Highway Plan.
- (9) Building. Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.
- (10) Building, front line of. The line of that part of the building nearest the front property line of the lot.
- (11) Building, height of. The vertical distance from the finished grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.
- (12) Building, principal. A structure in which is conducted the main use of the lot on which the structure is situated.
- (13) Business Service. An enterprise which provides other persons with planning, advice, technical aid and installs and maintains office equipment and data processing equipment and leases or sells such equipment.
- (14) Convenience Establishment. A small establishment designed and intended to serve the daily or frequent shopping or service needs of the immediate surrounding population. Filling stations and repair garages are specifically excluded from this definition.

Sec. 23-5 (Continued)

- (15) Coverage, Building. That percentage of the total plot or lot area covered by the principal building.
- (16) Dwelling. A building designed or used exclusively as the living quarters for one or more families.
- (17) Dwelling unit. A structure or portion thereof providing independent complete cooking, living, sleeping and toilet facilities for one family.
- (18) Dwelling, one-family, or single-family. A detached building designed for or occupied exclusively by one family and constituting one dwelling unit.
- (19) Dwelling, two-family. A detached building designed for or occupied exclusively by two families and constituting two dwelling units.
- (20) Dwelling, multiple-family. A residential building designed for or occupied by three or more families, with the number of families permitted in residence not exceeding the number of dwelling units provided.
- (21) Family. One or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, club, fraternity, or hotel.
- (22) Filling station. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be sold and where in addition routine automotive servicing and parts replacement may be done. Tire recapping and re-grooving and major automotive mechanical

Sec. 23-5 (Continued)

and body work, painting, welding, storage, auto wrecking and motor overhaul are activities specifically excluded from this definition.

- (23) Garage. A building or portion thereof in which a motor vehicle containing gasoline, distillate or other volatile, flammable liquid in its tank, is stored or repaired.
- (24) Garage, repair. Any building or premises which may be designed and used for the purposes of a "filling station" and also for major automotive mechanical repairs and body work and other customary and incidentally related activities.
- (25) Gross floor area. The total horizontal area of all of the floors of a building, measured from exterior to exterior including interior balconies, mezzanines, stairwells, elevator shafts and ventilation shafts etc.
- (26) Group Housing Development. Single-family, two-family or multiple-family dwellings built upon a minimum of a two acre parcel of land and permitted only by a special exception, subject to an approved site plan. Density and layout are controlled without strict conformity to specific yard, lot coverage and lot size requirements but the site plan must meet the density requirement of the pertinent use district.
- (27) Home occupation. A profession or use customarily and historically conducted entirely within a dwelling unit by the permanent inhabitants thereof only, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character or appearance thereof.

Sec. 23-5 (Continued)

- (28) Hotel. Any building, containing six ~~or more~~ more rooms intended or designed to be used, or which are used, rented or hired out to be occupied for sleeping purposes only by transients.
- (29) Line, front property. The line dividing abutting property from a public right of way.
- (30) Loading space, off-street. A space located on a premises for pickup and delivery at the premises. Required off-street loading space shall not be included as off-street parking space in computation of required off-street parking space.
- (31) Lot. A parcel of land shown as an individual unit on the most recent plat of record.
- (32) Lot, corner. A lot abutting the intersection of two or more streets. A lot abutting a curved street shall be considered a corner lot if the angle of the apex of a triangle is 135° or less. Which triangle shall be established as follows: a base line shall be drawn between the two most extreme opposite side points of the lot which intersect with the abutting street: from this line a perpendicular line shall be extended to the most distant point on the front line which point shall be the said apex; thereafter the said points shall be connected to form this pertinent triangle.
- (33) Lot front. That portion of an interior lot between the front property line and the midline of the parallel to the front property line.

Sec. 23-5 (Continued)

- (34) Lot, depth of. A mean horizontal distance between the front and rear property lines of a lot, measured in the general direction of its side property lines.
- (35) Lot, interior. A lot other than a corner lot, with frontage only on one street.
- (36) Lot lines. The property lines bounding the lot.
- (37) Lot, through; double frontage lot. A lot other than a corner lot with frontage on more than one street.
- (38) Lot, transverse. A lot which is approximately at right angles to the general pattern of other lots in the same city block.
- (39) Lot width. The distance between straight lines connecting front and rear lot lines at each side of the lot, measured between the midpoints of such lines.
- (40) Mineral or natural resources development. Commercial or industrial operations involving removal of timber, native vegetation, peat, muck, topsoil, fill, sand, gravel, rock, or any mineral and other operations having similar characteristics.
- (41) Motel. See tourist court.
- (42) Nonconforming use. A structure or land lawfully used or occupied and which does not conform to the regulations of the use district in which it is situated.
- (43) Nursery, day. A home or institution where two or more children are cared for

Sec. 23-5 (Continued)

during the day. This includes a kindergarten.

- (44) Open recreation uses. Recreational activities conducted primarily outside of any permanent building.
- (45) Open recreation uses, commercial. Recreational activities conducted outside of any permanent building and operated as a business.
- (46) Parking public. A structure or an open area other than a street, alley or other right-of-way used for the temporary parking of automobiles and available for public use whether free, for compensation or as an accommodation for clients or customers.
- (47) Parking space, off-street. A space located off any street, alley or other right-of-way which is adequate for parking an automobile with room for opening both doors of it and adequate maneuvering room on a parking lot with access to a public street or alley.
- (48) Personal service. A business which is neither conducted as the practice of a learned profession nor dealing primarily in wholesale or retail activities involving inventories of stock in trade on premises; e.g., barbers, beauticians, cobblers, drycleaning, realtors, tailors.
- (49) Profession. An occupation or calling requiring the practice of a learned art through specialized knowledge based on a degree issued by an institution of higher learning, e. g., Doctor of Medicine, Engineer, Lawyer.
- (50) Property line. A demarcation limit of a lot dividing it from other lots or parcels of land.

Sec. 23-5 (Continued)

- (51) Rooming house. Any dwelling in which three or more persons either individually or as families are housed or lodged for hire with or without meals. A boarding house, lodging house, tourist home or a furnished room house shall be deemed a rooming house.
- (52) Shopping center, planned. A group of separate commercial retail or professional or personal service establishments developed as a unit on a site having a minimum horizontal dimension of 400 feet in any direction.
- (53) Sign. Any lettered or pictorial device designed to inform or attract attention.
- (54) Signs, surface area. The entire area within a parallelogram, triangle, circle, semi-circle or other geometric figure, including all of the elements of the matter displayed, but not including blank masking, frames, or structural elements outside the advertising elements of the sign and bearing no advertising matter.
- (55) Special exception. The relaxation of the strict terms of this ordinance to permit uses in use districts where such uses require additional controls and safeguards not required of principal uses.
- (56) Story. That portion of a building between any floor and the next floor above, except that the topmost story shall be that portion of a building between the topmost floor and the ceiling or roof above it. If the finished floor level directly above a basement or cellar is more than six feet above grade such basement or cellar shall be considered a story.

Sec. 23-5 (Continued)

- (57) Story, half. A story under a gable, hip, gambrel or mansard roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.
- (58) Street. The right-of-way of a public or private thoroughfare affording the principal means of access to abutting property.
- (59) Strip commercial area. A developed business frontage along a street and no more than 200 feet in depth from the front property line.
- (60) Structure. Anything which is constructed or erected and located on or under the ground, or attached to something fixed to the ground.
- (61) Tourist court. A group of attached or detached buildings containing individual sleeping or living units without cooking or kitchen facilities with at least one parking space for each unit located on the same premises and convenient to each unit, all for the temporary use by automobile tourists or transients; includes auto courts, motels, or motor lodges.
- (62) Town houses. A type of single-family dwelling unit constructed in a series, including three or more units with some common walls.
- (63) Trailer coach. A readily movable vehicle with wheels designed or used for sleeping or living quarters, and propelled either by its own power or by any other power-driven vehicle to which it may be attached. A trailer coach may be referred to as a "trailer", "Mobile Home" and "Camper".
- (64) Trailer court. Any parcel of land used to accommodate two or more trailer coaches.

Sec. 23-5 (Continued)

- (65) Use, principal. Any main activity permitted by this ordinance.
- (66) Variance. The relaxation of the strict application of the terms of this ordinance. This definition shall not be construed to permit a use in any district which use is prohibited therein.
- (67) Yard. A required open space on the same lot with a principal use.
- (68) Yard, front. A space extending the full width of the lot and situated between the front property line and the front line of the building projected to the side property line of the lot. The front yard of a corner lot shall be on the same side as the front yards of the adjacent interior lot.
- (69) Yard, rear. A space extending the full width of the lot and situated between the rear property line of the lot and the rear line of the building projected to the side property lines of the lot.
- (70) Yard, side. A space situated between any side line of a building and the adjacent side property line of the lot and extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required the front boundary of the side yard shall be the front property line of the lot and if no rear yard is required, the rear boundary of the side yard shall be the rear property line of the lot. In the case of corner lots, the yard most nearly conforming to side yards of this adjacent lot shall be considered to be a side yard.
- (71) Yard, usable. One or more well drained open areas located on the same lot as the principal use for use by the residents

Sec. 23-5 (Continued)

thereon for outdoor activities. This definition does not include driveways, common walks, refuse storage or collection areas, or off-street parking or loading areas; but does include private balconies containing at least 20 square feet, and roofs available for outdoor activities.

Sec. 23-6. USE DISTRICTS.

(A) The City of Anchorage is hereby divided into the following types of use districts:

PLI: Public Lands and Institutions.

R-1 Districts: One-family residential districts.

R-1A Districts: One-family residential districts.
(oversized lots)

R-2 Districts: Two-family residential districts.

R-2A Districts: Two-family residential districts.
(oversized lots)

R-3 Districts: Multiple-family residential districts.

R-4 Districts: Multiple-family residential districts.

R-0 Districts: Central residential and office districts.

D-2 Districts: Residential Development districts.

D-3 Districts: Residential Development districts.

D-4 Districts: Residential Development districts.

B-1 Districts: Neighborhood commercial districts.

B-2 Districts: Central Business districts.

B-2H Districts: Central business district heavy commercial.

Sec. 23-6 (Continued)

B-3 Districts: General and strip commercial business districts.

I-1 Districts: Light industrial districts.

I-2 Districts: Heavy industrial districts.

Such districts shall permit such uses as are hereinafter set forth.

- (B) Said use districts are bounded and defined as shown on a map entitled "Zoning Map of the City of Anchorage", a certified copy of which is on file in the office of the City Clerk and which, with all explanatory matter thereon, is hereby made a part of this ordinance. The original of the City Zoning map shall be kept in the office of the Administrative Official.

Sec. 23-7. PLI: PUBLIC LANDS AND INSTITUTIONS DISTRICTS:

The following statement of intent and use regulations shall apply in all PLI Districts.

- (1) PLI districts are intended to include major open lands and major public and quasi-public institutional uses, including existing land reserves for future public and institutional use.
- (2) Permitted principal uses and structures:
 - a. Parks, parkways, land reserves and related facilities.
 - b. Golf course, play grounds, playfields and the like.
 - c. Zoos, museums, historic and cultural exhibits and the like.
 - d. Water conservation and flood control installations.

Sec. 23-7 (2) (Continued)

- e. Quasi-public institutions, including schools, colleges and universities, hospitals, children's homes, convalescent homes, homes for the aged, correctional institutions, rehabilitation centers, and the like.
 - f. Cemeteries.
 - g. Sewer installations and water supply installations.
 - h. Utilities installations.
 - i. Churches, only after approval by the Planning Commission of a site plan, and provided that the principal access shall be directly from a street of Arterial I or greater designation upon the Official Street and Highway Plan, and provided further that any parsonage upon the site shall comply with this Ordinance as to yards, height, and other district regulations.
- (3) Permitted accessory uses and structures.
- Uses and structures which are necessary or desirable adjuncts to permitted principal uses and structures, where such accessory uses and structures are under the management or control of the public or quasi-public agency responsible for the permitted principal use or structure.
- (4) Special exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted.
- a. Exploitation of mineral resources on tracts of 90,000 square feet or more.
 - b. Oil and gas development, on tracts of 90,000 square feet or more.

Sec. 23-7 (Continued)

- c. Commercial farming on tracts of ten acres or more, including the storage, at least 50 feet from any property line, of farm equipment, used on the same tract.
 - d. Radio and television transmission towers.
 - e. Recreation uses, including commercial recreation uses for a period to be determined by the Planning Commission.
- (5) Prohibited uses and structures:
Any use or structure not permitted above.
- (6) Minimum lot requirements (area and width):
Lot Width ----- 50 feet
Lot Area ----- 6,000 sq. ft.
- (7) Minimum yard requirements (depth of front and rear yards, width of side yard):

A yard 25 ft. in depth (if at the front or rear of the lot) or 25 ft. in width (if at the side of the lot) shall be provided adjacent to any public street in this district. Where a lot in this district abuts a lot in any residential district, a yard corresponding to the yard required in the residential district shall be provided in the portion of the lot adjacent to the residential district boundary
- (8) Maximum lot coverage by all buildings:
30%
- (9) Maximum height of structures: Unrestricted except structures shall not interfere with Federal Aviation Agency regulations on airport approaches.

Sec. 23-7 (continued)

(10) Limitations on signs: No signs intended to be read from off the premises shall be permitted except:

Identification, informational or directional signs erected by public and quasi-public bodies in connection with permitted principal or accessory uses or for other public purposes.

Sec. 23-8 R-1; R-1A: SINGLE FAMILY RESIDENTIAL DISTRICTS.

The following statement of intent and use regulations shall apply in all R-1 and R-1A districts.

- (1) These districts are intended as single-family residential areas with low population densities. R-1 and R-1A use regulations are identical, but existing dimensional differences in lot width and area are intended to be preserved. Structures and uses required to serve governmental, educational, religious, non-commercial recreational, and other needs of such areas are permitted outright within such districts, or are permissible as special exceptions subject to restrictions intended to preserve and protect their single-family residential character.
- (2) Permitted principal uses and structures:
 - a. Single family dwellings.
 - b. Public and private schools.
 - c. High schools with primarily academic curriculums, provided that principal access to such schools shall be directly from a street of Arterial I or greater designation upon the Official Street and Highway Plan.

Sec. 23-8 (Continued)

d. Churches, only after approval by the Planning Commission of a site plan, and provided that the principal access shall be directly from a street of Arterial I or greater designation upon the Official Street and Highway Plan, and provided further that any parsonage upon the site shall comply with this Ordinance as to yards, height, and other district regulations.

e. Parks, playgrounds and playfields and municipal buildings and uses in keeping with the character and requirements of the district.

(3) Permitted accessory uses and structures.

a. Home occupations.

b. Non-commercial greenhouses, gardens, garden sheds and tool sheds; private barbecue pits.

c. One private garage.

d. The keeping of animals and fowl in a manner not to constitute a nuisance. Paddocks, stables and the like shall be separated by at least 20 feet from any dwelling and 100 feet from any lot line.

e. Day nurseries and kindergartens for not more than ten children, as a home occupation and subject to the limitations indicated in the definition thereof.

f. Accessory to churches:

(1) Parsonage

(2) Day nurseries and kindergartens.

(3) Meeting rooms.

Provided that where there are separate buildings on a church lot, the distance

Sec. 23-8 (Continued)

between any two such buildings shall conform to the same yard requirements between buildings as if the buildings were located on separate lots.

- g. Private storage in yards of non-commercial equipment including non-commercial trucks, boats, aircraft parts, camp trailers and the like, in a safe and orderly manner and separated by at least ten feet from any dwelling and property line.

(4) Special exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted:

- a. Group Housing Developments, on sites of at least two acres in area, and not divided by any Arterial II or greater street, provided that an amount of open space per dwelling unit shall be provided which is equivalent to that required for conventional development in the district.
- b. Public Branch Libraries, Small Public Museums and the like.
- c. Extensions of Commercial Development from a continuous developed commercial frontage of at least 150' along an arterial street. It may extend to but shall not have access to a parallel street on the opposite side of the block from the arterial street.
- N d. Non-commercial Open Recreation Uses upon a site of one acre or more.
- e. Greenhouses and Tree Nurseries.
- f. Airstrips and Heliports, if adequate approach and noise buffer areas are provided.
- g. Utilities Substations.

Sec. 23-8 (Continued)

- h. Planned Shopping Centers on sites with a minimum horizontal dimension of 400 feet in any direction in which permitted uses shall be as in the B-2 district.
- i. Charitable or welfare institutions as specified below. Development shall conform with an approved site plan showing all proposed buildings, landscaping, driveways, parking and loading areas, fencing and signs.
- (f) Institutions where the principal activity is the professional care of persons residing temporarily on the premises, subject to the following limitations:

<u>Number of beds^{sup} in a building</u>	<u>Minimum Lot Area per building</u>	<u>Minimum Setback from any property line</u>
1 - 10	20,000 sq. ft.	20 feet
11 - 20	40,000 sq. ft.	20 feet

- (ii) Institutions for specialized medical treatment or therapy, so located that the traffic generated may reach arterial streets without traversing residential neighborhoods, and subject to the following requirements:

Minimum lot area of 20,000 sq. ft.:
a building setback from any property line of 20 feet; and no more than 20% of any lot may be covered by a building.

(5) Prohibited uses and structures.

- a. Any use or structure not of a character indicated under Permitted Uses and Structures or permitted as a Special Exception.
- b. Storage or use of mobile homes. Small camping trailers less than 20' in length may be stored only.

Sec. 23-8 (Continued)

- c. Storage in connection with trade, service or manufacturing activities.
- d. Storage of commercial or industrial equipment, including but not limited to commercial buses, tractors, graders, trucks, aircraft or aircraft parts.
- e. Any use which causes or may reasonably be expected to cause excessive noise, vibration, smoke, dust, or other particulate matter, toxic, or noxious matter, humidity, heat or glare at or beyond any lot line of the lot on which it is located. "Excessive" is defined for these purposes as a degree exceeding that in their customary manner of operation by uses permitted in the district, a degree injurious to the public health, safety or welfare.

(6) Minimum Lot Requirements (Area and Width)

<u>USE</u>		<u>LOT AREA</u>	<u>LOT WIDTH (ft.)</u>
a. Single Family Residence:	R-1	6,000	50
	R-1A	8,400	70

<u>USE</u>		<u>LOT AREA</u>	<u>LOT WIDTH (ft.)</u>	
b. Schools:	Elementary -----	acres	200	
	Junior High -----	1/2 acres	200	
	Kindergartens {	R-1	6,000 (plus 140 sq. ft. for each child in excess of 20 in regular attendance)	50
		R-1A	8,400 (plus 140 sq. ft. for each child in excess of 20 in regular attendance)	70
	Senior High -----	10 acres	200	

Sec. 23-8 (Continued)

Provided however, that where joint use is made of school grounds, or where public park areas and school grounds are adjacent, lot area requirements may be reduced to an extent which the Planning Commission determines to be sufficient to meet public requirements.

- (7) Minimum Yard Requirements (Depth of front and rear yards, widths of side yard)

Single-family dwellings, day nurseries and kindergartens:

Front yard - 20 ft.
 Side yard - 5 ft.
 Rear yard - 10 ft.

Churches, schools and municipal buildings:

R-1: Front yard - 30 ft.; Side & Rear yard - 30 ft.
 R-1A: Front yard - 30 ft.; Side & Rear yard - 50 ft.

Where a church or school side or rear yard adjoins a public park or other permanent open space or a public or institutional building not containing residential facilities in the adjacent portion, the applicable side or rear yard requirements shall be reduced by 50%.

- (8) Maximum coverage of all buildings on a lot: 30%.
- (9) Maximum Height of structures: Except as otherwise provided in this ordinance, no portion of a principal structure shall exceed 2 1/2 stories or 25 feet in height. Accessory buildings shall not exceed 12 feet in height.
- (10) Limitations on signs. No signs intended to be read from off the premises shall be permitted except:
- a. In connection with home occupations, one non-illuminated sign, not exceeding 1 sq. ft. in area, located flat against the wall of the principal building.

Sec. 23-8 (Continued)

- b. One sign, not exceeding 6 sq. ft. in area, for the purpose of advertising the sale, rental or lease of a building or premises. Such sign shall be located flat against the wall of the building, or more than 20 ft. from the front lot line and more than 10 ft. from side or rear lot lines.
- c. Churches, public and quasi-public institutions including schools and municipal buildings and uses may erect for their own use one identification or announcement sign or bulletin board not exceeding 20 sq. ft. in area. No such sign shall be closer than 5 ft. to any front, side or rear lot line of the property.
- d. For nonconforming commercial uses, day nurseries and kindergartens, one sign, not exceeding 6 sq. ft. in area, to be located flat against the wall of the principal building, or more than 20 ft. from the front lot line and more than 10 ft. from side or rear lot lines.
- e. For tract development or housing projects, and containing two acres or more, one sign not exceeding 50 sq. ft. in area, to be erected not closer than 20 ft. to any public street nor closer than 10 ft. to side or rear lot lines of adjoining property.
- f. No flashing or animated sign shall be permitted, and no source of incandescent or mercury vapor illumination for any sign or premises shall be directly visible from off the property.

Sec. 23-9. R-2; R-2A: TWO-FAMILY RESIDENTIAL DISTRICTS:

The following statement of intent and use regulations shall apply in all R-2 and R-2A districts.

- (1) R-2 & R-2A use districts are intended as two-family residential areas with medium population densities. R-2 and R-2A use regulations are

Sec. 23-9 (1) (Continued)

identical, but existing dimensional differences in lot width and area are intended to be maintained. Structures and uses required to serve governmental, educational, religious, non-commercial recreational, and other needs of such areas are permitted outright within such districts, or are permissible as special exceptions subject to restrictions intended to preserve and protect their residential character.

(2) Permitted principal uses and structures:

Same as R-1 and R-1A use districts and in addition:

(a) Two-family dwellings.

(3) Permitted accessory uses and structures:

Same as R-1 and R-1A uses under Sec. 23-8 (3).

(4) Special exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted:

Same as for R-1 and R-1A special exceptions under Sec. 23-8 (4).

(5) Prohibited uses and structures:

Same as Sec. 23-8 (5).

(6) Minimum lot requirements (area and width).

<u>USE</u>	<u>LOT AREA</u> (sq. ft.)	<u>LOT WIDTH</u> (ft.)
a. Single-Family Dwelling (R-2 district	6,000	50
(R-2A district	7,200	60

Sec. 23-9 (6) (Continued)

<u>USE</u>	<u>LOT AREA</u> (sq. ft.)	<u>LOT WIDTH</u> (ft.)
b. Two-Family Dwellings (R-2 district	6,000	50
(R-2A district	8,400	70
 (7) Minimum yard requirements (Depth of front and rear yards, widths of side yard):		
a. Single-family and two-family dwellings:		
Front yard -- 20 ft.		
Side yard -- 5 ft.		
Rear yard -- 10 ft.		
 b. Churches, schools, municipal buildings:		
Same as R-1 and R-1A.		
 (8) Maximum coverage of all buildings on a lot: 40%		
 (9) Maximum height of structures, except as otherwise provided in this ordinance.		
Same as for R-1 and R-1A in Sec. 23-8 (9).		
 (10) Limitations on signs. No signs intended to be read from off the premises shall be permitted except:		
Same as for R-1 and R-1A in Sec. 23-8 (10).		

Sec. 23-10. R-3; R-4: GENERAL AND CENTRAL RESIDENTIAL DISTRICTS:

The following statement of intent and use regulations shall apply in all R-3 and R-4 districts.

- (1) Districts are intended to include single-family, two-family and multiple-family residential uses with medium to high population densities, and uses and structures required to serve governmental, educational, religious, noncommercial recreational and other needs of such areas, including certain small convenience business and service facilities appropriate in view of relatively high densities and designed to serve walk-in trade from the immediately surrounding area, with regulations and restrictions to protect the primarily residential character of the districts.

While R-3, General Residential, is intended to include a variety of locations in which multiple-family residence is appropriate; R-4, Central Residential, is intended only for the more specialized conditions of areas near major commercial centers, where higher densities may be desirable.

- (2) Permitted principal uses and structures:

- a. R-3, General Residential District:

Same as for R-2 and R-2A use districts and in addition:

- (i) Multiple-family dwellings.
- (ii) Private clubs and lodges.
- (iii) Utilities substations.
- (iv) Day nurseries and kindergartens.
- (v) Public branch libraries.

- b. R-4, Central Residential District:

Same as R-3, and in addition:

Sec. 23-10 (Continued)

- (i) Hotels, motels and camper parks adjacent to streets of Arterial I or greater designation on the Official Street and Highway Plan.
- (ii) Boarding and lodging houses.
- (iii) Single-family, two-family and multiple family homes built to a common wall at a side lot line, provided that the construction and location of such wall shall be approved by the City in conformity with pertinent City building and fire and housing codes.
- (iv) Charitable or welfare institutions, convalescent centers, nursing or rest homes where the principal activity is the professional care of one to twenty persons residing temporarily on the premises, subject to the following limitations:

<u>Number of Beds</u>	<u>Minimum Lot Area</u>	<u>Minimum Yard Requirement</u>
1 - 5	6,000 sq. ft.	Same as R-3 dwellings
6 - 10	12,000 sq. ft.	15 feet
11 - 20	20,000 sq. ft.	15 feet

(3) Permitted Accessory Uses and Structures:

Same as R-1 and R-1A uses under Section 23-8 (3), and in addition:

Multiple-family dwellings, or groupings of such dwellings under common ownership or management, having 25 or more dwelling units, or hotels or motels having 20 or more rental units, convenience establishments for sale of goods, personal and professional service establishments, and eating establishments, provided there shall be no external evidence of the existence of such establishments other than one sign not exceeding six square feet in area and placed flat against the structure for each such establishment.

Sec. 23-10 (Continued)

- (4) Special Exceptions: Subject to the requirements the special exception procedures of this ordinance the following uses may be permitted:

Same as for R-1 and R-1A special exceptions under Section 23-8 (4), and in addition:

- a. High-rise apartments upon suitable sites having a minimum horizontal dimension of 130' in any direction and adjacent to an Arterial I or a street of higher designation not traversing residential neighborhood streets, with accessory uses, yards, height, lot coverage, parking, loading and signs as required for multiple-family dwellings in the district.
- b. Trailer courts, subject to the requirements of the Trailer Court Ordinance. (Chapter 20 of this Code.)
- c. Off-street parking spaces or structures.
- d. Museums, Historical and Cultural Exhibits, aquariums and the like.
- e. Convenience Establishments, separated by at least 1,000 feet from any other convenience establishment.

- (5) Prohibited Uses and Structures:

Same as Section 23-8 (5).

- (6) Minimum Lot Requirements (Area and Width):

	<u>USE</u>	<u>LOT AREA</u>	<u>LOT WIDTH (FT.)</u>
a.	Single and two-family dwellings (both R-3 and R-4 districts):		Same as R-2 and R-2A Districts.

Sec. 23-10 (Continued)

<u>USE</u>	<u>LOT AREA</u>	<u>LOT WIDTH (FT.)</u>
b. Multiple-family dwellings (other than high-rise apartments)	Lot area controlled by yard requirements	
R-3 use: 3 and 4 families	"	50
R-3 use: 5 or more families	"	100
R-4 use:	"	50

	<u>LOT AREA</u>	<u>LOT WIDTH (FT.)</u>
c. Churches, hotels, motels:		
R-3 district:	20,000 sq. ft.	100
R-4 district:	12,000 sq. ft.	100

	<u>LOT AREA</u>	<u>LOT WIDTH (FT.)</u>
d. Boarding and lodging houses, private clubs and fraternal organiza- tions:		
R-4 district only:	6,000 sq. ft.	50

	<u>LOT AREA</u>	<u>LOT WIDTH (FT.)</u>
e. Schools, day nurseries, kindergartens (both R-3 and R-4 districts):	Same as R-1 and R-1A districts	

(7) Minimum Yard Requirements (Depth of front and rear yards,
widths of side yard):

Sec. 23-10 (Continued)

<u>USE</u>	<u>FRONT YARD</u>	<u>SIDE YARD</u>	<u>REAR YARD</u>	<u>USABLE YARD</u>	
				(Min. per dwelling unit sq. ft.)	(Max. % in balconies)
a. Single-family and two-family dwellings not built to a common wall, boarding and lodging houses, day nurseries, kindergartens in:					
R-3 district:	20 ft.	5 ft.	10 ft.		
R-4 district:	10 ft.	5 ft.	10 ft.		
	<u>FRONT YARD</u>	<u>SIDE YARD</u>	<u>REAR YARD</u>		
b. Multiple-family dwelling, except high-rise, not built to a common wall in:					
R-3 district (3 or 4 families):	20 ft.	10 ft.	20 ft.	400 sq. ft.	25%
R-3 district (5 or more families):	None required	<u>20 ft.</u>	<u>20 ft.</u>	None required	
R-4 district:	40 ft. from street centerline	5 ft.	10 ft.	100 sq. ft.	50%

Sec. 23-10 (Continued)

	<u>FRONT</u> <u>YARD</u>	<u>SIDE</u> <u>YARD</u>	<u>REAR</u> <u>YARD</u>	<u>USABLE YARD</u> (Min. per dwelling unit sq. ft.)	<u>ex. %</u> in alconies)
c. Single-family, two family, and multiple-family dwellings except high-rise built to a common wall on one or both sides in:					
R-4 district:	40 ft. from street center line	At com- mon wall none. Other 5 ft.	15 ft.	100 sq. ft.	50%
d. High-rise apartments:	yard requirements fixed by special exception only.				
e. Churches, schools, municipal buildings, hotels, motels:					
(i)	Any yard abutting a public street in an R-3 district shall be 20 ft. Any yard abutting a public street in an <u>R-3</u> district shall be 10 ft.				
(ii)	Side and rear yards for such uses in an R-3 district shall each be 20 ft., in an R-4 district there shall be 15 ft.				
f. Private clubs and lodges:	Same yard requirements as for multiple-family dwellings in R-4 districts.				
(8)	Maximum lot coverage by all buildings on lot:				
	R-3 District: 40%				
	R-4 District: Unrestricted except as required to meet pertinent yard requirements above.				
(9)	Maximum height of structures except as otherwise provided in this ordinance:				
	R-3 Districts: ³ stories ^{or 35} or 60 ft. except as provided for high-rise apartments.				

Sec. 23-10 (Continued)

R-4 District: Unrestricted, except as otherwise provided in this ordinance.

- (10) Limitations on signs. No signs intended to be read from off the premises shall be permitted except:

Same as R-1 and R-1A in Sec. 23-8 (10), and in addition:

- a. Multiple-family dwellings, boarding and lodging houses may have one sign, not exceeding 6 sq. ft. in area, identifying the premises and indicating "Vacancy" or "No Vacancy". Such signs shall be placed flat against the wall of the principal building, or more than 20 ft. from the front lot line and more than 10 ft. from side or rear lot lines. Where a multiple-family dwelling has principal entrances from more than one street, one such sign may be erected at each entrance.
- b. Hotels, motels: one sign, not exceeding 20 sq. ft. in area, identifying the premises and indicating "Vacancy" or "No Vacancy". Such signs shall be placed flat against the wall of the principal building, or more than 20 ft. from the front lot line and more than 10 ft. from side or rear lot lines. Where a hotel or motel abuts more than one arterial or collector streets, one such sign may be erected for each such street.
- c. Private clubs and lodges may have one sign, not exceeding 6 sq. ft. in area. Such sign shall be placed flat against the wall of the principal building, or more than 20 ft. from the front lot line and more than 10 ft. from side or rear lot lines.

Sec. 23-11 D-2; D-3; D-4: RESIDENTIAL DEVELOPMENT DISTRICTS.

The following statement of intent and use regulations shall apply in all D-2, D-3 and D-4 Districts.

- (1) The "D" classification is intended to be applied to substantial tracts of land which are planned for eventual residential use, but have lagged behind the general development of the area.

Sec. 23-11 (1) (Continued)

The purpose of this classification is to permit the developer a maximum freedom to employ modern residential building and site planning ideas, and yet to assure a standard of development at least as high as in the corresponding R-2, R-3 and R-4 zones. It is also intended to encourage the utilization of land which would otherwise lie fallow, so as to achieve reasonable efficiency in the use of public utilities, streets and other facilities.

Public and institutional uses are permitted, but only on major streets and subject to large yard requirements. A variety of temporary uses may be permitted by special exception where permanent development is not imminently anticipated.

Residential densities are similar to the R-2, R-3 and R-4 districts but buildings may be placed more freely on the lot, so long as the proper lot area, visibility at driveways, and usable yards are provided. Subdivision design standards are intended to be correspondingly more flexible as applied in these districts.

(2) Permitted Principal Uses and Structures:

D-2 District uses are the same as R-2 district uses.
D-3 District uses are the same as R-3 district uses.
D-4 District uses are the same as R-4 district uses.

In addition, all uses permitted in PLI districts are permitted in "D" districts provided that principal access to uses permitted under Sec. 23-7 (2), a through e, shall be directly from streets of Arterial I or greater designation upon the Official Street and Highway Plan, and subject to all restrictions applying thereto in PLI districts.

(3) Permitted Accessory Uses and Structures:

Same as R-1 and R-1A uses under Sec. 23-8 (3).

Sec. 23-11 (Continued)

- (4) Special Exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted.

D-2 is the same as R-2 under Sec. 23-8 (4).

D-3 and D-4 is the same as R-4 under Sec. 23-10 (4).

In addition, D-2, D-3 and D-4 Districts exceptions may be granted for the following:

- a. Exploitation of Mineral Resources on tracts of 90,000 square feet or more.
- b. Oil and Gas development, on tracts of 90,000 square feet or more.
- c. Commercial farming on tracts of ten acres or more, including the storage, at least 50 feet from any property line, of farm equipment, used on the same tract.
- d. Radio and Television Transmission towers.
- e. Planned Shopping Centers on sites with a minimum horizontal dimension of 400 feet in all directions in which permitted uses shall be as in the B-2 district.
- f. Open Recreation Uses, including commercial recreation uses, for a period to be determined by the Planning Commission.

- (5) Prohibited Uses and Structures:

D-2 District: Same as R-1 under Sec. 23-8 (5)

D-3 District: Same as R-3 under Sec. 23-10 (5)

D-4 District: Same as R-4 under Sec. 23-10 (5)

- (6) Minimum Lot Requirements (Area and Width):

D-2 Districts: Same as R-2 districts.

D-3 Districts: Same as R-3 districts.

D-4 Districts: Same as R-4 districts.

Sec. 23-11 (Continued)

- (7) Minimum Yard Requirements (Depth of front and rear yards, widths of side yard):

Front Yards

Dwellings other than high rise: none required.

All Other: 20 feet.

Side & Rear Yards

Dwellings other than high rise: 5'

All Other: 25' or, when abutting a public park or other permanent public or quasi-public open space, 10'.

Usable Yard:

For dwellings other than high-rise apartments, day nurseries and kindergartens:

<u>District</u>	<u>Area per Dwelling Unit</u>	<u>Minimum Dimension of any side</u>	<u>Maximum Portion Permitted in Balconies</u>
D-2	600 sq. ft.	20 ft.	20%
D-3	400 sq. ft.	15 ft.	25%
D-4	100 sq. ft.	15 ft.	50%

All other:

None required except may be made a condition to the granting of a special exception.

Visability at Driveways:

City Traffic Code (Chapter 19) requirements affecting visibility at street intersections shall be complied with at the entrances from the public streets to all driveways and to all off-street parking and loading areas.

Sec. 23-11 (Continued)

- (8) Maximum Lot coverage by all buildings on a lot:

Unrestricted, except as required to meet other provisions of this ordinance.

- (9) Maximum Height of structures: unrestricted.

- (10) Limitations on signs. No signs intended to be read from off of the premises shall be permitted except:

Same as R-3 and R-4 districts under Sec. 23-10 (10).

Sec. 23-12. R-0; CENTRAL RESIDENTIAL AND OFFICE DISTRICTS:

The following statement of intent and use regulations shall apply in R-0 districts:

- (1) Lands in this classification are generally older residential area around the Central Business District (CBD) complex, in transition to higher residential densities or to office uses, but unlikely to be needed for CBD purposes for many decades. Hospitals in or adjacent to the district have resulted in a complex of medically-related activities appropriate and desirable near, but not at, the central business district of a metropolitan area. It is intended to provide for continued orderly transition of these districts, and to prevent the intrusion of types of commercial uses which in older cities have contributed to development of mixed commercial and residential slums around the urban center.
- (2) Permitted Principal Uses and Structures:
 - a. Single-family dwellings, including town houses, two family dwellings, and multiple-family dwellings except high-rise apartments. *6 OR MORE STORIES*
 - b. Hotels and motels.
 - c. Boarding and lodging houses.
 - d. Private clubs and fraternal lodges.
 - e. Churches.
 - f. Parks, playgrounds and playfields, and municipal buildings in keeping with the character of the district.
 - g. Museums, historic and cultural exhibits, libraries and the like.
 - h. Day nurseries and kindergartens.
 - i. Schools.

Sec. 23-12 (2) (Continued)

- j. Hospitals, convalescent homes, homes for the aged or infirm, rehabilitation centers, clinics, medical and medically-related laboratories and research centers and the like.
- k. Professional and business offices.
- l. Establishments dealing only in medical or medically related items.
- m. Establishments dealing in prosthetic appliances, eyeglasses, hearing aids and the like, including production for on-premises sales, fitting, repair, and sale of replacement parts.
- n. Utilities installations.
- o. Off-street parking lots.

(3) Permitted accessory uses and structures:

Same as Sec. 23-11(3).

(4) Special Exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted:

Same as Sec. 23-10 (4), except trailer courts.

(5) Prohibited Uses and Structures.

Trailer courts, otherwise the same as Sec. 23-11 (5).

(6) Minimum Lot Requirements (Area and Width):

Same as R-4 Districts, except that for R-0 district uses not permitted in R-4 districts all lots shall contain at least 6,000 sq. ft. and have a width of no less than 50 ft.

(7) Minimum Yard Requirements (Depth of front and rear yards and widths of side yard):

Sec. 23-12 (7) (Continued)

Same as required for R-4 uses, provided that no usable yard area is required.

(8) Maximum Lot coverage by all buildings:

Unrestricted as to those uses permitted in R-0 districts but not permitted in Sections 23-7, -8, -9, -10 and -11. As to the latter, the maximum lot coverage shall be the same as for those permitted uses in the pertinent district.

(9) Maximum Height of structures: unrestricted, except as provided otherwise in this ordinance.

(10) Limitations on signs. No signs intended to be read from off of the premises shall be permitted except:

Same as R-3 and R-4 districts and in addition, for other uses additionally permitted in this district, one sign not exceeding 20 sq. ft. in area, and extending not more than 3 ft. from the wall of the principal building and not extending above the top of any wall.

Sec. 23-13. B-1: NEIGHBORHOOD COMMERCIAL DISTRICTS.

The following statement of intent and use regulations shall apply in all B-1 districts:

(1) B-1 districts are intended to serve daily or frequent needs of the surrounding area for goods and services related to home needs. Such districts are intended to be compactly designed for more pedestrian trade than would be expected in strip commercial districts, and for easy pedestrian movement throughout the entire district. These districts are to be located in areas not otherwise served by commercial establishments of the same type.

(2) Permitted principal uses and structures:

a. Retail stores and shops, limited to uses needed

Sec. 23-13 (2) (Continued)

to serve a residential district, such as grocery store, meat shop, retail baker, drug store, hardware store, book or stationery store, dry goods or notions store, wearing apparel or shoe store, laundry or clothes cleaning agency for pick-up and delivery only, but not to include sales, display of merchandise, service or storage other than parking, except in a fully enclosed building.

- b. Personal service shops, such as barber, shoe shine or repair shop, photographer, beauty parlor, custom dressmaking, self-service laundry, hand-tool service and repair, knit shop, all within fully enclosed buildings.
- c. Professional and business offices, branch banks, post offices, at which all business is conducted within fully enclosed buildings.
- d. Restaurants, tea rooms, cafes, and other places serving food or beverages conducted entirely within fully enclosed buildings.
- e. Parks, playgrounds, government buildings in keeping with the character of the district.
- f. Utilities installations.

(3) Permitted accessory uses and structures:

- a. In the same structure and in connection with a permitted principal use, one dwelling unit per lot.
- b. Uses and structures customarily accessory and clearly incidental and subordinate to permitted or permissible uses and structures, and are not prohibited under "Prohibited Uses and Structures".

Sec. 23-13 (Continued)

- (4) Special exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted:
- a. Filling stations, located at the edges of the district or located within parking areas within the district and designed so as to minimize interference with free flow of pedestrian traffic into or within the district.
 - b. Off-street cab stands for not more than four taxicabs per stand.
 - c. Alcoholic beverage dispensaries and retail liquor stores.
 - d. Drive-in banks, with sufficient off-street area for maneuvering and waiting automobiles.
- (5) Prohibited uses and structures:
- a. Drive-in eating establishments.
 - b. Commercial recreation establishments, including bowling alleys, pool halls, amusement arcades and the like.
 - c. Dwelling units, except as provided under "Accessory Uses and Structures".
 - d. Any use of a kind not permitted in this district, or which causes or may reasonably be expected to cause excessive noise, vibration, smoke, dust, or other particulate matter, toxic, or noxious matter, humidity, heat, or glare at or beyond any lot line of the lot on which it is located. "Excessive" is defined for these purposes as a degree exceeding that caused in their customary manner of operation in the district, or a degree injurious to the public health, safety or welfare.

Sec. 23-13 (Continued)

(6) Minimum Lot Requirements (Area and Width):

Lot width -- 50 ft.
Lot Area -- 6,000 sq. ft.

(7) Minimum Yard Requirements (Depth of front and rear yards,widths of side yard):

Front yard: 20 ft.

Side yard: Abutting a residential district boundary, or a public street, 10 ft. Otherwise none, except that when buildings are built on adjacent lots, if any space is left between them, a side yard of 10 ft. between such buildings shall be provided and maintained.

Rear yard: Adjacent to any residential district, 25 ft. If an alley intervenes, the distance may be reduced to 5 ft.

In any case where a lot in this district is used commercially and adjoins a lot in any district, not separated by a street or alley, in which residential uses are generally permitted, a sight-obscuring wall or fence not less than five (5) feet in height shall be erected and maintained by the lot owner, or the occupant if he is not the same person as the owner. The fence shall be located along any portion of the lot line which adjoins the lot in the residential district except in the required front yard.

(8) Maximum Lot coverage by all buildings: 40%

(9) Maximum Height of structures. Except as otherwise provided in this ordinance.

2 stories or 25 ft.

(10) Limitations on signs. No signs intended to be read from off of the premises shall be permitted except: Same as provided in R-1 districts under Sec. 23-8 (10), a, b, c and f, and in addition:

Sec. 23-13 (10) (Continued)

- N a. If there is one business establishment in a building, that business may have three signs none of which shall exceed 32 sq. ft. in area. No more than one of such signs shall be placed on any one face of the building.
- N b. If two or more business establishments are located in the same building, each business may have two signs, none of which exceed 32 sq. ft. in area. No more than one sign for any business shall be placed on any one face of the building.

Provided however, no flashing or animated sign shall be permitted; and no source of incandescent or mercury vapor illumination shall be so arranged as to shed direct light upon or beyond any residential district boundary.

Sec. 23-14. B-2: CENTRAL BUSINESS DISTRICT.

The following statement of intent and use regulations shall apply in the B-2 District.

- (1) The B-2 District is intended to protect and improve the central business district core for efficient performance of its primary functions as the metropolitan center for retail, commercial, financial and service facilities and to discourage uses not requiring a prime central location.
- (2) Permitted Principal Uses and Structures:
 - a. Retail stores, sales and display rooms.
 - b. Offices.
 - c. Hotels and motels.
 - d. Financial institutions.
 - e. Eating and drinking establishments.
 - f. Personal service establishments.
 - g. Business service establishments.
 - h. Commercial and job printing.
 - i. Establishments offering repair services on items brought in by customers.
 - j. Theaters, auditoriums, libraries, museums, historical and cultural exhibits, aquariums and the like.
 - k. Wholesaling from sample stocks only, provided that no manufacturing or storage for distribution shall be permitted in connection with such wholesaling.
 - l. Studios, business schools, vocational schools.

Sec. 23-14.(2) (Continued)

- m. Laboratories and establishments for production, fitting and repair of eyeglasses, hearing aids, and prosthetic appliances, and the like.
- n. Clubs and lodges.
- o. Churches.
- p. Public buildings and lands.
- q. Off-street parking lots and garages.
- r. Utilities installations, radio and television stations.
- s. Professional offices.

All above mentioned uses except parking shall be conducted within fully enclosed buildings, and there shall be no sales, service, storage or display on open lots or outside of buildings.

- t. Taxicab stands.
- u. Single-family, two-family, multiple-family dwellings and high-rise apartments.

(3). Permitted Accessory Uses and Structures:

- a. Filling Stations and Carwashes within off-street parking garages accommodating 30 cars or more.
- b. Uses and structures customarily accessory and clearly incidental to permitted principal uses and structures, and not of a nature, nor having characteristics, prohibited under "Prohibited Uses and Structures".

(4) Special Exceptions; Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted:

Sec. 23-14 (4) (Continued)

- a. Bus terminals, air passenger terminals and the like, with sufficient off-street area for maneuvering, waiting and loading vehicles.
- b. Marqueés, overpasses and similar substantial projections into public air space, together with any signs to be mounted thereupon. Such uses may be permitted only after an encroachment permit is approved by the City Council.
- c. Pawnshops, second-hand shops and auction rooms.
- d. Amusement arcades; pin-ball parlors; pool halls; billiard parlors; bowling alleys.
- e. Drive-in banks, with sufficient off-street area for maneuvering and waiting automobiles.

(5). Prohibited Uses and Structures:

- a. Warehousing or storage except as incidental to a permitted principal use.
- b. Wholesaling, except from sample stocks.
- c. Manufacturing, except articles for sale at retail on the premises.
- d. Any use which causes or may reasonably be expected to cause excessive noise, vibration, smoke, dust, or other particulate matter, toxic, or noxious matter, humidity, heat or glare at or beyond any lot line of the lot on which it is located "Excessive" is defined for these purposes as a degree exceeding that caused in their customary manner of operation by uses permitted in the district, or a degree injurious to the public health, safety, or welfare.

(6) Minimum Lot Requirements (Area and Width): none

(7) Minimum Yard requirements (Depth of front and rear yards, widths of side yard):

Sec. 23-14 (7) (Continued)

None, provided that the front line of all buildings shall not be less than 40 feet from the center line of the street on which the lot faces.

Provided, however, that where a lot in this district abuts a lot in any residential or development district, with no intervening street or alley, a side yard five feet in width or a rear yard five feet in depth shall be provided.

- (8) Maximum Lot coverage by all buildings:

Unrestricted.

- (9) Maximum height of structures, except as otherwise provided in this ordinance:

Unrestricted.

- (10) Limitations on signs. Signs intended to be read from off of the premises shall be permitted except that a sign shall not project more than 3-1/2 feet into air space over any public sidewalk, or more than one foot into air space over any public alley, other than as permitted by special exception for marqueés and the like and by Council approved encroachment permit.

Sec. 23-15. B-2H; CENTRAL BUSINESS DISTRICT, HEAVY
COMMERCIAL DISTRICT

The following statement of intent and use regulations shall apply in all B-2H districts.

(1) A B-2H district is intended to provide space for certain types of commercial uses necessary near the Central Business District (B-2) area.

(2) Permitted principal uses and structures:

Same as B-2 district and in addition:

- a. Warehousing of goods in connection with permitted principal uses in this district or R-0 districts.
- b. Wholesaling and distribution by establishments of not more than 6,000 sq. ft. of floor area neither using more than three delivery vehicles nor using any delivery vehicle rated at more than 1 ton capacity.
- c. Filling stations; repair garages; car washes; passenger automobile rentals.
- d. Establishments dealing primarily in second-hand merchandise; auction rooms.
- e. Repair services.
- f. Vocational schools involving light industrial processes.

Except for routine servicing at filling stations, all such uses listed above, except parking, shall be conducted within fully enclosed buildings. There shall be no sales, service, storage or display on open lots or outside of buildings.

(3) Permitted accessory uses and structures:

Same as B-2 Districts.

Sec. 23-15 (Continued)

- (4) Special exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted:

Same as B-2 districts.

- (5) Prohibited uses and structures:

- a. Display or sales of automobiles or other merchandise except in fully enclosed buildings.
- b. Manufacturing, except articles for sale at retail on the premises.
- c. Any use which causes or may reasonably be expected to cause excessive noise, vibration, smoke, dust, or other particulate matter, toxic, or noxious matter, humidity, heat, or glare at or beyond any lot line of the lot on which it is located. "Excessive" is defined for these purposes as a degree exceeding that caused in their customary manner of operation in the district, or a degree injurious to the public health, safety or welfare.

- (6) Minimum lot requirements (area and width):

Width - 50 ft.

Area - 6,000 sq. ft.

- (7) Minimum yard requirements (Depth of front and rear yards,widths of side yard):

Front yard: None, except that the front line of all buildings shall be at least 40 ft. from the center line of the street on which the lot faces.

Side and rear yards: If any side or rear yard is provided it shall be not less than 5 ft. in width, provided however where a lot in this district adjoins a lot in any residential or development district and there is no intervening street or alley, a side yard five feet in width or a rear yard five feet in depth shall be provided.

Sec. 23-15 (Continued)

- (8) Maximum lot coverage by all buildings on a lot.

Unrestricted.

- (9) Maximum height of structures, except as otherwise provided in this ordinance:

Unrestricted.

- (10) Limitations on signs. Signs intended to be read from off of the premises shall be permitted:

Same as B-2 district.

Sec. 23-16 B-3: GENERAL AND STRIP COMMERCIAL DISTRICTS. The following statement of intent and use regulations shall apply in all B-3 Districts.

- (1) B-3 districts are intended to include areas which are heavily exposed to automobile traffic and in which general commercial development is or is becoming the exclusive use of the land. Extension of existing strip commercial areas is to be discouraged.
- (2) Permitted Principal Uses and Structures:
 - a. Retail establishments including those with incidental manufacturing or processing of goods for sale at retail on the premises; sales and display rooms and lots, not including yards for storage or display of any scrap, salvaged or second-hand materials or for scrap or salvage operations.
 - b. Eating and drinking establishments, including drive-ins and caterers.
 - c. Service and repair establishments; including filling stations; repair garages and car washes; passenger automobile rentals.
 - d. Personal service establishments, including funeral homes; barber and beauty shops; shoe repair shops; and dry cleaning, dyeing, laundry, dressmaking, tailoring and garment repair shops; kennels.
 - e. Commercial recreational structures and uses.
 - f. Commercial off-street parking lots and garages.
 - g. Offices, studios, clinics and laboratories.
 - h. Professional offices.
 - i. Hotels, motels, boarding and lodging houses.

Sec. 23-16 (2) (Continued)

- j. Commercial and job printing establishments.
- k. Rehabilitation centers, except those in which persons remain overnight in connection with treatment.
- l. Financial institutions.
- m. Private clubs and lodges.
- n. Utilities installations.
- o. Public buildings and grounds.
- p. Churches.
- q. Business and vocational schools.
- r. Wholesaling and distribution operations.
- s. Taxicab stands.

(3) Permitted Accessory Uses and Structures:

- a. In the same structure and in connection with a permitted principal use, one dwelling unit per lot.
- b. Uses and structures clearly incidental and customarily accessory to permitted uses and structures.

(4) Special Exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted:

Same as R-4 Districts, and in addition:

- a. Multiple-family dwellings containing not less than 20 dwelling units, subject to the following requirements and limitations:

Sec. 23-16 (4) (Continued)

(i) Minimum lot area per dwelling unit, if under 3 stories, 1,000 sq. ft.; 3- stories, 600 sq. ft.

(ii) Minimum lot width, 100 ft.

(iii) Minimum yards; Any yard adjacent to a street, 25 ft. in width or depth. Side yards shall equal a combined total of 50 ft., but no side yard of less than 15 ft. shall be permitted. Rear yard - 15 ft.

(iv) Minimum off-street parking and loading space: one parking space per dwelling unit, plus off-street loading and delivery space, to be provided in addition to required yards.

(v) Not more than two identification signs, which may include space for "Vacancy" or "No Vacancy."

(5) Prohibited Uses and Structures:

Any use not allowed under principal or accessory uses and structures or permitted by a special exception.

(6) Minimum Lot Requirements (area and width):

Width - 50 ft.

Area - 6,000 sq. ft.

(7) Minimum Yard Requirements (depth of front and rear yards, widths of side yard):

Front yard: None, except that the front line of all buildings shall not be less than 40 ft. from the center line of the street upon which the lot faces.

Side yard: None required. Except that where the side of lot adjoins a lot in any R-1, R-1A, R-2, R-2A, D-2 or D-3 district, a

Sec. 23-16 (7) (Continued)

side yard not less than five feet in width shall be provided. Such side yard shall not be used for a driveway, walkway, storage, refuse container, or parking or loading area. If any unrequired side yard is provided on any lot, such yard shall not be less than five feet in width.

Rear yard: None required.

- (8) Maximum lot coverage by all buildings on a lot:

Unrestricted.

- (9) Maximum height of structures except as otherwise provided in this ordinance.

Unrestricted.

- (10) Limitations on signs. Signs intended to be read from off of the premises shall be permitted subject to the following provisions:

a. Area per sign: Unrestricted.

N b. Total area of signs arranged along or intended to be viewed from across an adjacent lot line shall not exceed two square feet for each foot of length of the said lot line.

c. No sign shall be erected within ten feet of any street except signs placed flat against the wall of a building.

Sec. 23-17 I-1 LIGHT INDUSTRIAL DISTRICT:

The following statement of intent and use regulations shall apply in all I-1 districts.

- (1) I-1 districts are intended primarily for light manufacturing, processing, storage, wholesaling and distribution, and also permits general commercial uses. Regulations are intended to allow different uses to exist compatibly, and to protect neighboring residential districts.
- (2) Permitted Principal Uses and Structures:
 - a. All uses permitted in B-3 districts.
 - b. Airplane, automobile or truck assembly, remodeling or repair.
 - c. Beverage manufacture.
 - d. Boat building.
 - e. Building materials sales and storage.
 - f. Cabinet shops.
 - g. Cleaning, laundry or dyeing plants.
 - h. Machine or blacksmith shops.
 - i. Manufacture, service or repair of light consumer goods such as appliances, batteries, furniture, garments or tires.
 - j. Metal working or welding shops.
 - k. Motor freight terminals.
 - l. Paint shops.
 - m. Steel fabrication shops or yards.
 - n. Warehousing.

Sec. 23-17 (Continued)

Provided however that:

(i) Any open storage or repair yard, excluding yards for the orderly display of new or reconditioned heavy equipment, shall be entirely enclosed within a fence at least 8 ft. high. The fence shall be of chain link, concrete block or other appropriate construction approved by the Building Official. The fence shall be maintained in a sound and orderly condition, and shall be kept free of any advertising matter other than signs permitted by this ordinance.

(ii) No use shall be constructed or operated so as to cause excessive noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare, at or beyond any lot line of the lot on which it is located. "Excessive" is defined for these purposes as a degree exceeding that caused in their customary manner of operation by uses permitted in the district, or a degree injurious to the public health, safety or welfare.

(3) Permitted Accessory Uses and Structures:

Same as B-1 Districts.

(4) Special Exceptions; Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted.

a. Group Housing Developments on sites of at least ten acres in area and not divided by any Arterial II or greater street, subject to the requirements of the D-3 use District regarding principal uses and structures and usable yards.

b. Trailer Courts on sites of at least ten acres in area and not divided by any Arterial II or greater street, subject to the requirements of the Trailer Court Ordinance.

(5) Prohibited Uses and Structures:

a. Dwellings, except as provided under "Permitted Accessory uses and Structures" and under

Sec. 23-17 (5) (Continued)

"Special Exceptions".

- b. Junk yards.
- c. Manufacture or packaging of cement products, feed, fertilizer, flour, glue, paint, petroleum products, soap, turpentine or varnish, charcoal, distilled products.
- d. Manufacture, service or repair of railroad equipment.
- e. Open storage of cinders, coal, feed, grain, gravel, manure, muck, peat, sand or topsoil.
- f. Railroad freight terminals, switching yards or classification yards.

(6) Minimum lot requirements (Area and Width):

Width -- 50 ft.
Area -- 6,000 sq. ft.

(7) Minimum yard requirements (Depth of front and rear yards, widths of side yard):

Front Yard: None

Side and rear yard: None, except that where a lot adjoins a residential district, a side or rear yard shall be provided equal to that required in the adjoining residential district. If a side or rear yard is provided elsewhere, it shall be not less than 5 ft. in width.

(8) Maximum lot coverage by all buildings on a lot:

Unrestricted except as required to meet other provisions of Sec. 23-17 (7) above.

(9) Maximum height of structures, except as otherwise provided in this ordinance.

Sec. 23-17 (9) (Continued)

Within 50 ft. of any residential district boundary, no portion of any structure shall exceed the pertinent height limitations of the residential district.

- (10) Limitations on signs. Signs intended to be read from off the premises shall be permitted to the same extent as in B-3 districts.

Sec. 23-18 I-2: HEAVY INDUSTRIAL DISTRICTS:

The following statement of intent and the use regulations shall apply in all I-2 Districts.

- (1) I-2 districts are intended primarily for heavy manufacturing and major shipping terminals and related uses. Also permitted in the district are uses generally permitted in commercial districts.

I-2 district regulations are intended to protect other use districts.

- (2) Permitted principal uses and structures:

Any use, except dwellings, hotels, motels, rooming or lodging houses or trailer parks, provided, however that no use shall be constructed or operated so as to cause excessive noise, vibrations, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any boundary of the I-2 district in which it is located. "Excessive" is defined for these purposes as a degree exceeding that caused in their customary manner of operation by uses permitted in the I-1 district, or a degree injurious to the public health, safety or welfare.

- (3) Permitted accessory uses and structures:

Same as B-1 districts.

Sec. 23-18 (Continued)

- (4) Special exceptions: Subject to the requirements of the special exception procedures of this ordinance the following uses may be permitted:

Same as I-1 district in Sec. 23-17 (4) except that trailer courts are not permitted. In addition--junk yards subject to Chapter 13A of this Code and any Junk Yard Regulations pursuant thereto.

- (5) Prohibited uses and structures:

- a. Dwellings except as provided under "Permitted Accessory Uses and Structures".
- b. Hotels, motels, rooming or lodging houses, trailer courts.

- (6) Minimum lot requirements (Area and width):

Width -- 50 ft.
Area -- 6,000 sq. ft.

- (7) Minimum yard requirements (Depth of front and rear yards; widths of side yard):

Same as I-1 district in Sec. 23-17 (7)

- (8) Maximum lot coverage by all buildings on a lot:

Unrestricted, except as required to meet other provisions of this ordinance.

- (9) Maximum height of structures, except as otherwise provided in this ordinance.

Same as I-1 district under Sec. 23-17 (9).

- (10) Limitations on signs. Signs intended to be read from off the premises shall be permitted as follows:

The same sign regulations shall apply as in B-3 Districts under Sec. 23-16 (10)

Sec. 23-19 SUPPLEMENTARY DISTRICT REGULATIONS.

In addition to regulations indicated for individual districts in the Schedule of District Regulations, the regulations below apply in individual districts, groups of districts, or all districts as indicated:

(A) Visibility at Intersections.

On a corner lot, no fence, wall, hedge, or other planting or structure that will impede visibility between a height of two and a half feet and eight feet above the center line grades of the intersecting streets shall be erected, planted, placed or maintained, and no vehicle so impeding visibility shall be parked, within the triangular area formed by the right-of-way lines at such corner lots and a straight line joining said right-of-way lines at points which are 30 feet distant in both residential and industrial areas, from the intersection of the right-of-way lines and measured along such lines. If the relation of the surface of the lot to the streets is such that visibility is already obscured, nothing shall be done to increase the impediment to visibility within the vertical and horizontal limits set forth above.

(B) Accessory Buildings.

No accessory building shall be erected in any required yard except that buildings accessory to a residential use may be erected in any required rear yard which is adjacent to an alley. No separate accessory building shall be erected closer than ten feet to any principal or accessory building.

(C) Erection of More than One Principal Structure on a Lot.

In any district, more than one principal structure housing a permitted or permissible use may be erected on a single lot, provided that yard, building spacing, lot area and other requirements

Sec. 23-19 (C) (Continued)

of this chapter shall be met for each principal structure as though it were on an individual lot, and that the requirements of other regulations of the city are met.

(D) Height Regulation.

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, or other structures placed above the roof level, provided however that no structure or portion of any structure hereafter erected shall necessitate increase in glide angles on approaches to airport runways, or raising elevation of established turning circles, established by the Federal Aviation Agency.

(E) Fall-Out Shelters.

Fall-out shelters are defined as structures or portions of structures intended to provide protection to human life during periods of danger to human life from nuclear fall-out air raids, storms, or other emergencies, permitted as principal or accessory uses and structures in any district, subject to the yard and lot coverage regulations of the district. Such shelters may be contained in other structures or may be constructed separately, and in addition to shelter use, may only be used for principal or accessory use permitted in the district, subject to the district regulations on such use. The area of underground fall-out shelters less than 30 inches above the finished lot grade shall not be included in computation of lot coverage by all buildings. No shelter shall be permitted in any required front yard unless it is located entirely below the general ground level of the finished lot grade, except for air vents, radio antennas and other additions not constituting material impediments to vision, and is entirely covered with landscaping appropriate to the rest of the front yard.

Sec. 23-19 (E) (Continued)

(i) Special Exceptions Permitting Construction of Joint Fall-Out Shelters.

The Planning Commission may, as a special exception, permit construction of joint shelters by two or more property owners. Where such joint shelters are permitted, the Commission may waive the side and rear yard requirements on the property or properties directly involved in the construction of the joint shelter to the extent necessary to permit practical and efficient location and construction, provided, however, that side and rear yard requirements shall be met where property involved in the joint proposal abuts or adjoins property not included in the proposal.

(F) Buildings to Have Access.

Every building shall be on a lot abutting on a public street with principal access to such street or with access to a private street approved by the Fire Department, the Department of Public Works, Traffic Engineer and the Planning Department.

(G) Off-Street Parking Requirements.

(i) After the effective date of this Ordinance, in all use districts except the B-2 district, the following parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building which is erected, enlarged, or altered for use for any of the following purposes. Any property against which local improvement assessments have been levied by the City for the construction of public off-street parking shall be exempted from providing and maintaining one space for each 100 square feet of property so assessed.

- a. Dwellings and Tourist Courts - at least one parking space for each dwelling unit in the building or buildings.

Sec. 23-19 (G) (Continued)

- b. Rooming Houses - at least one parking space for every three guest rooms.
- c. Hotels - at least one parking space for every six guest rooms.
- d. Auditoria, Churches, Dance Halls, Exhibition Halls, Places of Public Assembly, Restaurants, Skating Rinks, Taverns, Theaters, and other Commercial Places - at least one parking space for each five seats based on maximum seating capacity or for each five occupants based on maximum capacity as calculated under the Uniform Building Code as now or hereafter adopted in this Code under Chapter 9.
- e. Hospitals, Sanitaria, Nursing Homes, and Welfare Institutions - at least one parking space for each five beds based on maximum capacity.
- f. Food Stores and Shopping Centers - at least one parking space for each two hundred feet of building floor area.
- g. Other Retail Establishments, Clinics, Professional Offices - at least one parking space for each two hundred and fifty square feet of building floor area.
- h. Other offices and similar uses - at least one parking space for each three employees, based on maximum capacity as calculated under the Uniform Building Code as now or hereafter adopted in Chapter 9 of this Code.
- i. Wholesale Stores, Warehouses, and Storage Buildings - at least one parking space for each three employees, but not less than two parking spaces for any one such use.

Sec. 23-19 (G) (Continued)

- j. Industrial and Manufacturing Establishments in which there are more than five employees - at least one parking space for each four hundred square feet of gross floor area; or one parking space for every three employees, whichever results in the larger number of parking spaces.
- k. Repair garages and filling stations - at least four parking spaces for each service stall; provided that all vehicles in the custody of the operator of the business for service, repair, storage, sale or other purposes shall be stored on the premises or on a separate off-street parking lot.
 - (ii) In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be the same as the above mentioned use, which in the opinion of the administrative official shall be deemed most similar.
 - (iii) In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately.
 - (iv) For one-family and two-family dwellings, any required parking space shall be not less than eight feet wide and twenty feet long. Parking spaces for other uses as required above shall have a gross area of not less than two hundred and fifty square feet per vehicle. An uncovered private parking area may occupy any yard required by this ordinance.

Sec. 23-19 (G) (Continued)

- (v) All parking spaces provided shall be on the same lot with the main building it serves or on an abutting lot, except that the board of examiners and appeals by variance may permit the parking spaces to be on any lot within three hundred feet of the building, if it determines that it is impractical to provide parking on the same or an abutting lot.
- (vi) Spaces which only meet the requirements of one establishment may serve more than one establishment on the same parking lot, provided that sufficient evidence is presented which shows that the normal hours of operation of such establishments do not overlap.
- (vii) Design and location of entry and exit to required off-street parking areas shall be subject to the approval of the Traffic Engineer.

(H) Off Street Loading Requirements.

No building or structure shall be erected, nor structurally altered in any use district so as to increase its gross floor area to an amount exceeding twenty-five per cent more than its existing gross floor area at the time of passage of this ordinance without prior provision for off-street loading space in conformance with the following minimum requirements:

- (i) Types of loading berths. Such off-street loading space shall be provided in berths which conform to the following minimum specifications:
 - a. Type "A" berths shall be at least sixty feet long by ten feet wide by fourteen feet, six inches high, inside dimensions.

Sec. 23-19 (H) (Continued)

- b. Type "B" berths shall be at least thirty feet long by ten feet wide by fourteen feet, six inches high, inside dimensions.
- c. Type "C" berths shall be located in the rear of a lot and utilize part of an adjacent alley. The building setback shall be a minimum of five feet from the property line along the alley for the entire width of the lot.

(ii) Number of spaces required. The following numbers and types of berths shall be provided for the specified uses except that in any B-2 district, one Type "C" berth may be substituted for one Type "B" berth. The uses specified below shall include all structures designed, intended or arranged for such use. The aggregate gross floor area shall be measured by the outside dimensions of the building or buildings multiplied by the number of floors designed, intended or arranged for such use, including auxiliary storage areas in basements or lofts.

<u>Use</u>	<u>Aggregate Gross Floor Area (sq. ft.)</u>	<u>Berths Required</u>	<u>Type</u>
a. Freight terminal	0 - 12,000	0	-
Railroad yard,	12,001 - 36,000	1	A
Industrial Plant,	36,001 - 60,000	2	A
Manufacturing or	60,001 - 100,000	3	A
Wholesale Establish- ment, Warehouse	each additional 50,000 or fraction thereof	1 additional	A

Sec. 23-19 (H) (Continued)

<u>Use</u>	<u>Aggregate Gross Floor Area (sq. ft.)</u>	<u>Berths Required</u>	<u>Type</u>
b. Auditorium, Motel Convention Hall, Multi-family Dwelling or sports arena.	0 - 50,000	1	B (auditoria, convention hall)
	50,001 - 150,000	1	B
	150,001 - 400,000	2	B
	each additional 250,000 or fraction thereof	1 additional	B

<u>Use</u>	<u>Aggregate Gross Floor Area (sq. ft.)</u>	<u>Berths Required</u>	<u>Type</u>
c. Hospital, Sanatorium or welfare institution	0 - 10,000	0	B
	10,001 - 100,000	1	B
	100,001 - 400,000	2	B
	each additional 250,000 or fraction thereof	1 additional	B

<u>Use</u>	<u>Aggregate Gross Floor Area (sq. ft.)</u>	<u>Berths Required</u>	<u>Type</u>
d. Department store, retail establishment, restaurant, funeral home or commercial establishment not otherwise specified	0 - 6,250	0	B
	6,251 - 14,000	1	B
	14,001 - 36,000	2	B
	36,001 - 60,000	3	B
	60,000 - 100,000	4	B
	each additional 50,000 or fraction thereof	1 additional	B

Sec. 23-19 (H) (Continued)

<u>USE</u>	<u>Aggregate Gross Floor Area (sq. ft.)</u>	<u>Berths Required</u>	<u>Type</u>
e. Hotel or office building without restaurant	0 - 25,000	0	B
	25,001 - 40,000	1	B
	40,001 - 100,000	2	B
	each additional 100,000 or fraction thereof	1 additional	B

<u>Use</u>	<u>Aggregate Gross Floor Area (sq. ft.)</u>	<u>Berths Required</u>	<u>Type</u>
f. School	0 - 14,000	0	
	over 14,000	1	A

(iii) Uses not specifically mentioned.

In the case of a use not specifically mentioned, the requirements for off-street loading facilities for a similar use as determined by the administrative official shall apply.

(iv) Concurrent different uses.

When any proposed structure will be used concurrently for different purposes, final determination of loading requirements will be made by the Administrative Official; but in no event shall the loading requirements be less than the total requirement for each use based upon its aggregate gross floor area.

(v) Location of required loading facilities.

The off-street loading facilities required for the uses mentioned in this ordinance shall be in all cases on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements.

Sec. 23-19 (H) (Continued)

(vi) Manner of using loading areas.

No space for loading or unloading of vehicles shall be so located that a vehicle using such loading space projects into any public street, except in the case of Type "C" berths. Loading space shall be provided with access to an alley, or if no alley adjoins the lot, with access to a street. Any required front, side or rear yard may be used for loading unless otherwise prohibited by this ordinance.

(vii) Modification of requirements.

The Traffic Engineer may modify the off-street loading area as they apply to an individual case only for good cause shown, and he shall set reasonable safe-guards and conditions to insure any such modification conforms to the intent of this ordinance. Modification may be granted if it is demonstrated to the satisfaction of the Traffic Engineer that loading operations of the use of the structure in question will not interfere with pedestrian or vehicular traffic on a street.

(viii) Signs.

The owners of the property shall provide, locate and maintain loading area signs as specified by the Traffic Engineer.

(ix) Design and location of entrances and exits for required off-street loading areas shall be subject to the approval of the Traffic Engineer.

Section 23-19

(I) Residual lot area.

Any district permitting two-family or multiple-family residences with requirements as to lot area per family, and the lot area is such that a portion remains after full requirements have been met for other dwelling units on the same lot, the following rules shall guide the issuing of building permits. These requirements shall not be modified by a variance or special exception.

- (i) Two units may be permitted on a lot containing the required area for one unit and 90% of the lot area required for a second.
- (ii) Three units may be permitted on a lot containing the required area for two units and 85% of the lot area required for a third.
- (iii) Four units may be permitted on a lot containing the required area for three units and 80% of the lot area required for a fourth.
- (iv) One additional unit may be permitted on a lot containing the required area for four or more units and 75% of the lot area required for the additional unit.

(J) Projections into required yards.

The following structures may project into required front, side or rear yards as specified below and shall not be considered in determining lot coverage:

- (i) Paved terraces may project into required front, side or rear yards provided that no structures placed there shall violate other requirements of this ordinance.

Section 23-19 (J) (Continued)

- (ii) Unroofed landings and stairs may project into required front and rear yards only, provided that no portion other than a light handrail shall extend above the first floor level of the building.
- (iii) Window sills, belt courses, cornices, eaves and similar incidental architectural features may project not more than two feet into any required yard.
- (iv) Open fire escapes, may project not more than four feet, six inches into any required yard.
- (v) A private garage or carport may project into a required rear yard abutting a public alley.

(K) Signs.

All signs whether they are attached to a structure or are free-standing shall be so located as to conform to minimum yard requirements and maximum height requirements of the district in which the sign is located. A permit shall be obtained from the building official before any sign is installed in any district except signs of less than one square foot in area shall require no permit.

- (L) *Fences may be constructed at the lot lines except that front yard fences over three and one-half feet (3 1/2 ft.) high in any residence district shall meet the front yard setback requirement in the use district in which the lot is located.*

Sec. 23-20. NONCONFORMING USES.

(A) Intent.

N Within use districts established by this ordinance there may exist lots, structures, and uses of land, water areas and structures which were lawful before the effective date of this ordinance but are prohibited or restricted by this ordinance. It is the intent of this ordinance to permit these nonconforming uses to continue until they are eliminated or removed, but not to encourage their perpetuation. It is further the intent of this ordinance that nonconforming uses shall not be enlarged, expanded or extended, or reconstructed after suffering physical damage to the extent prescribed in this ordinance. Nonconforming uses are hereby declared to be incompatible with permitted uses in the pertinent use districts.

(B) Undue hardship:

Nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of this ordinance and which construction has since proceeded diligently. Actual construction is hereby defined as the placing of construction materials on real property in a permanent position and fastened in a permanent manner; except that where demolition or removal of an existing structure, or substantial excavation, has begun preparatory to already designed and planned new construction for which a building permit has been issued. Such demolition, removal or excavation shall be deemed to be actual construction, provided that work shall be diligently carried on until the completion of the new construction.

(C) Nonconforming lots of record.

(i) Use:

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling

Sec. 23-20 (C) (i) (Continued)

and customary accessory buildings may be erected on any single lot of record at the effective date of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the same district.

(ii) Sale or subdivision:

If two or more lots, or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of this ordinance which makes any or all of the existing lots nonconforming as to lot width or area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold which does not meet lot area and width requirements established by this ordinance. No division of the parcel shall be made which leaves remaining any lot in single ownership with width or area below the requirements of this ordinance, provided, however, that if two lots or portions of lots are in single ownership and can be used or subdivided in such a manner that each comes within 10% of meeting lot area and lot width requirements for the district, each may be used as an individual lot. Provided further, that if a series of more than two lots in single ownership can be used or subdivided in such a manner that each comes within 10% of meeting lot area and lot width requirements for the district, each may be used as an individual lot.

(D) Nonconforming Structures.

Where a structure exists or is under active construction at the effective date of this ordinance, which could not be built under the terms of this ordinance, by reason of restrictions imposed on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains but it is subject to the following conditions:

Sec. 23-20 (D) (continued)

- (i) No alteration or enlargement permitted.

No nonconforming structure shall be enlarged or altered in any way.

- (ii) Damage Reconstruction, repair, alteration.

- a. Should a structure or a part thereof, which is nonconforming be physically damaged by any means not caused by negligent or intentional acts of the owner or occupant to an extent of more than 50% of its replacement cost at the time of damage, it shall not be reconstructed and reused except in conformity with the provisions of this ordinance. Replacement cost is the estimated value, less depreciation, of replacement of the structure in kind immediately prior to the damage.
- b. Where two or more structures are nonconforming uses on the same premises, the replacement cost shall be computed on the basis of the value of all nonconforming structures on the premises but shall not be considered to include any structure which is in conforming use.
- c. Where reconstruction is permitted, rebuilding shall be completed within one year from the date of damage if the structure is to be rebuilt for a nonconforming use.
- d. Any nonconforming structure may be repaired or altered to convert it to a conforming use and conforming structure. Provided, however, a nonconforming structure may be repaired or altered to an extent not exceeding 50% of the replacement cost of the structure as of the beginning of the period in any ten consecutive years. Such action shall be limited to ordinary repairs, including repair or replacement of nonbearing walls, fixtures, wiring

Sec. 23-20 (D)(ii) d (Continued)

or plumbing, provided however that no such repairs or alterations shall increase the size of the structure, or create or increase nonconformity in the structure or in characteristics of use. Painting and housekeeping maintenance shall not be included in computing cost of repairs and alterations.

- e. In the case of a structure which may have been restored under the provisions of this ordinance, the established ten-year alteration period, as provided in the above section, and the cost limit therein, shall apply to all repairs and alterations for the balance of the period regardless of the change in value incurred by the restoration.

Nothing herein contained shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official, provided however that if the costs of such strengthening or restoring to safe condition exceed the amounts set forth above, the nonconforming use of the structure shall be discontinued.

(E) Moving Nonconforming Structures.

Should the structure be moved on the lot on which it is located, it shall be made to conform as nearly as physically practicable with yard and other requirements for the district. No structure shall be moved to another lot in the same district, or to another district, unless it thereafter conforms to the requirements of the district.

N (F) Discontinuance of Nonconforming Structures and Uses.

Structure or uses which are nonconforming at the effective date of this ordinance and are thereafter supplanted by a permitted structure or use, either or both such structure or use shall conform to the

Sec. 23-20 (F) (Continued)

regulations for the district.

When a nonconforming structure, or use thereof, is discontinued or abandoned for 90 consecutive days, the structure, or use, shall not thereafter be used except in conformity with this ordinance. Provided however, that in connection with seasonal uses, discontinuance shall be considered as covering the period during the season of normal use.

(G) Cessation of Automobile Wrecking Yards, Salvage Yards and Junk Yards:

Any automobile wrecking yard, salvage yard or junk yard in existence in any public lands and institutions district or residential district at the date of enactment of this ordinance (April 20, 1965) shall at the expiration of one year from such date become a prohibited and unlawful use and shall be immediately discontinued.

(H) Mineral Resources Operations.

(i) Where exploitation of mineral resources exists as a nonconforming use, the following regulations shall govern:

a. Time Limitations on Mineral Resource Operations.

Within one year from the effective date of this ordinance, either such use shall cease or the owners thereof shall prepare a plan for Development, Exploitation Phase, providing for orderly progress according to a time schedule which will result in phasing out the operation within a specified period, and a Plan for Re-Use, indicating a proposal for re-use of the property in accordance with the regulations of this ordinance for the district in which the property is located. Such plans shall be in accordance with the adopted policy of the Planning Commission regarding special exceptions for mineral resource development.

Sec. 23-20 (H) (Continued)

The Plan for Development, Exploitation Phase, shall have as one of its final objectives the preparation of the property for re-use in accordance with the Plan for Re-Use. Such plans, with other necessary documents, shall be presented to the Planning Commission at least 90 days before the expiration of the one year period. If not so presented, continued operation after the expiration of the one-year period shall be a violation of this ordinance.

N (I) Nonconforming Parking, Loading, Signs or Other Characteristics of Use.

If the characteristics of a use, such as signs, off-street parking, off-street loading, lighting, or other matters required by this ordinance in relation to specified uses of land, water areas, structures or premises, are not in accord with the requirements of this ordinance, no change shall be made in such characteristics of use which increases nonconformity with such requirements. Change shall be permitted in the direction of conformity to these requirements, such as the removal of nonconforming signs, the provision of off-street parking or loading space, or the adjustment of lighting, provided such change does not constitute an extension or repair prohibited under this ordinance.

Sec. 23-21 ADMINISTRATION AND ENFORCEMENT.

(A) Administrative Official.

An administrative official designated by the City Manager shall administer and enforce this ordinance.

(B) Violations.

If the administrative official shall find that any of the provisions of this chapter are being violated, he shall provide written notice to the owner or tenant of the property, or to such other person as may be in position to remedy the violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this code to insure compliance with its provisions.

(C) Permits Required.

No building permit shall be issued unless the administrative official certifies thereon that the permit conforms with the provisions of this ordinance or that the applicant has received a written variance from the Board of Examiners and Appeals or a special exception from the Planning Commission. If the permit is denied, reasons for the denial shall be provided to the applicant in writing.

(D) Certificate of Compliance for New, Altered or Nonconforming Uses.

(i) It shall be unlawful to use or occupy or permit the use or occupancy of any structure or premises, or both, or part thereof, hereafter created, erected, changed, converted, or wholly or partially altered or enlarged in its use or structure until a certificate of compliance shall have been issued therefor by the administrative official stating that the proposed use of the structure or land conforms to the requirements of this ordinance.

Sec. 23-21 (D) (Continued)

- (ii) No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of compliance. The certificate of compliance shall be issued upon completion of the work in conformity with the provisions of this ordinance.
- (iii) A temporary certificate of compliance may be issued by the administrative official for a specified period during alterations or partial occupancy of a building pending completion, and such temporary certificate may include such conditions and safeguards as necessary to protect the safety of the occupants and the public.

(E). Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Compliance.

Building permits and certificates of compliance issued on the basis of incomplete plans and applications approved by the administrative official and other officers, boards or agencies, and building permits and certificates of compliance where additional approval or action is required shall authorize only the use, arrangement, location and construction as to those parts of plans and applications which are complete and approved.

(F) Board of Adjustment.

The City Council shall constitute a Board of Adjustment. The Mayor shall be the presiding officer of the Board. The Council may convene as a Board of Adjustment during any regular or special Council meeting for any hearing required by this ordinance and which is listed on the Council meeting agenda. The Mayor, or in his absence the Mayor pro tempore, may administer oaths and compel the attendance of witnesses at meetings of the Board which shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question or if a member is absent or fails to vote, indicating the fact, and shall keep records of

Sec. 23-21 (F) (Continued)

its examinations and other official actions. The minutes and records shall immediately be filed in the office of the City Clerk and shall be public records.

(i) The Board of Adjustment shall have the following powers:

- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or by a board or commission of the City in the enforcement or interpretation of the zoning ordinance.
- b. On application, and only in cases specified in the ordinance, to make special exceptions to the terms of the ordinance in accordance with general or specific rules therein contained, subject to additional conditions and safeguards required by public interest, and in harmony with the general purpose and intent of this ordinance.
- c. To authorize upon appeal, in specific cases not expressly prohibited by this ordinance, such variances or special exceptions permitted by the terms of this ordinance as will not be contrary to the public interest, where, upon good cause shown, a strict enforcement of the provisions of the ordinance will result in undue hardship, other than pecuniary or self-imposed hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

In exercising its appellate powers, the board may, in conformity with these provisions and the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made.

Sec. 23-21 (F) (Continued)

and for this purpose has the powers of the officer or board or commission from whom the appeal is taken. The concurring vote of a majority of the fully constituted membership of the Board shall be necessary to reverse an order, requirement, decision or determination of an administrative official, or a citizen board or commission or to decide in favor of the applicant or appellant on any matter on which the board is required to pass under the terms of this ordinance, or to make a variance or special exception in the application of the ordinance on appeal from the Board of Examiners and Appeals or the Planning Commission.

(ii) Assistance to the Board of Adjustment.

To assist the Board of Adjustment in carrying out duties prescribed in this ordinance, there shall be and is hereby created a Board of Examiners and Appeals, which shall consist of nine members appointed by the mayor with prior approval of the Council. The Planning Commission established pursuant to Sec. 2-95 and Sec. 2-103 of the Code shall also assist the Board of Adjustment in carrying out duties prescribed in this ordinance. Meetings of the Board of Examiners and Appeals and the Planning Commission shall be held at the call of their respective chairman and at such other times as required by this Code or as the said Board or Commission may determine. Meetings shall be open to the public. The Board and Commission shall keep minutes of their proceedings, showing the vote of each member on each question, or if any member is absent or fails to vote, indicating the fact, and shall keep records of their examinations and other official actions. The minutes and records shall immediately be filed in the offices of the respective secretaries of the Board or Commission, and shall be public records.

(G) Procedure on Appeals alleging error in enforcement or interpretation.

Appeal alleging error by the administrative official

Sec. 23-21 (C) (Continued)

in enforcement or interpretation of the provisions of this ordinance may be taken by any party affected by the proceedings or by a City administrative officer. Such appeal shall be made by notice in writing to the Board of Examiners and Appeals within ten (10) days of the action appealed from. If appeal is not taken as specified herein, the right of appeal shall have been forfeited. The appeal notice shall be in writing and shall state specifically wherein the error is, and the interpretation which the appellant believes should have been given or the exact nature of the interpretation sought. The notice shall be filed with the Secretary of the Board. The decision of the Board shall be final unless appeal is made in writing to the Board of Adjustment within 20 days.

Any appeal to the Board of Adjustment shall be filed with the City Manager and shall be substantially in the same written form as the notice of appeal to the Board of Examiners and Appeals. Only the specific issues in the notice of appeal filed with the Board of Examiners and Appeals shall be considered by the Board of Adjustment on appeal.

The findings of the Board of Examiners and Appeals and Board of Adjustment on any appeal, where they involve matters of general interpretation, shall be so recorded in the office of the administrative official as to provide a convenient and continuing guide for future reference.

(H) Procedure on Special Exceptions

Special exceptions shall be granted by the Board of Adjustment or by the Planning Commission only in accordance with the following procedures:

- (i) A written application for the special exception shall be submitted to the Planning Commission through the Planning Department, or where so specified in this ordinance, to the Board of Adjustment, indicating the subsection of this ordinance under which the special exception is authorized.

Sec. 23-21 (H) (Continued)

- (ii) Sufficient materials shall be submitted with the application to demonstrate that all requirements and standards affecting the special exception required by this ordinance, will be met.
- (iii) A date shall be set for a public hearing, public notice shall be published and the property posted at least ten days prior to the hearing, due notice shall be given to the parties in interest, and the hearing shall be held on the date set but may be continued to a later date if good cause be shown.
- (iv) That granting the exception will not be harmful to the public health, safety, convenience or welfare, and that the exception will be consistent with the objectives of the City Ordinances and the provisions of the General Plan. The reasons for granting or denial shall be provided to the applicant in writing.
- N (v) The conditions and safeguards necessary to guarantee compliance with the intent of this ordinance shall be made a part of the terms under which the special exception is granted, and violation of such terms shall be deemed a violation of this ordinance. Minimum requirements, because of the special nature of uses allowable by exception, shall:
 - a. Assure that the proposed use will be appropriate to existing and proposed development in the area.
 - b. Prescribe a time limit within which action for which the special exception is required shall be begun or completed or both. Failure to meet the time limit set shall void the special exception.

Sec. 23-21 (H) (Continued)

- c. Guarantee that the site will be made to conform with City regulations in the event of expiration of the special exception or in the event of failure of the project involving the exception.
 - d. Assure that the proposed use will neither create nor subject pedestrians to hazardous traffic conditions.
 - e. Assure the continuity and reasonably economical extension of transportation and public utilities.
 - f. Provide that, where residential and nonresidential uses adjoin in the same use district, all hazards to safety, health, comfort and repose will be reduced to normal residential levels at residential lot lines and along residential streets by screening, dense vegetative buffering, fencing, deep landscaped yards or other suitable means.
- (vi). No special exception shall be granted except by the concurring vote of a majority of the fully constituted membership of the Planning Commission.
- (vii) The Planning Commission shall give a decision on the application for special exception within a reasonable time. The Commission's action shall be final unless appeal is taken to the Board of Adjustment within 20 days by the filing with the city manager of a written notice of appeal specifying the grounds thereof. Only the specific points in the notice of appeal shall be considered by the Board.
- (viii) The Planning Commission's action may be appealed to the Board of Adjustment by any party affected by the proceedings, or by a city official. Upon appeal, the report and records of the Planning Commission concerning the case and the decision thereon shall be rendered to

Sec. 23-21 (H) (Continued)

the Board of Adjustment. The Board shall act only upon the record of the Planning Commission regarding the application, supporting materials and public hearing. The Board shall make findings and set conditions and safeguards as required above for the Planning Commission if an appeal is granted.

- (ix) In special exceptions authorized by direct action of the Board of Adjustment, the Board shall proceed as specified above for the Planning Commission.

(I) Procedure in Appeals for Variances:

An appeal from the decision of the administrative official shall first be made to the Board of Examiners and Appeals. Variances may be granted by the Board of Examiners and Appeals or upon appeal therefrom by the Board of Adjustment, only in accord with the following procedures.

- (i) A written notice of appeal for the variance must be filed with the Board of Examiners and Appeals through the Secretary of the Board, which notice shall show:
- a. That special conditions exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings or structures in the same district.
 - b. That strict interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

Sec. 23-21 (I) (Continued)

- c. That the special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience.
 - d. That granting the variance will be in harmony with the objectives of this ordinance, and not injurious to the neighborhood or otherwise detrimental to the public welfare.
- (ii) A nonconforming use of neighboring lands, buildings, or structures in the same district, and a permitted use of lands, buildings or structures in other districts shall not be considered grounds for issuance of a variance.

Any other variance granted in the same general area shall not constitute grounds for issuance of another similar variance.

- (iii) The variance shall be the minimum variance that will make possible a reasonable use of the land, building or structure, equivalent to but not exceeding the use of similar lands, buildings or structures permitted generally in the same use district. The Board of Examiners and Appeals or, upon appeal, the Board of Adjustment, may reduce the extent of the variance requested.
- (iv) A date shall be set for a public hearing on the variance not less than ten days after the application for such is received. Not less than five days before the hearing, public notice shall be published, the property shall be posted and due notice shall be given to affected parties as

Sec. 23-21 (I) (Continued)

determined by the administrative official. A public hearing shall be held before action is taken on any variance.

- (v) The Board of Examiners and Appeals and, upon appeal, the Board of Adjustment, shall find whether each of the requirements have been met. A concurring vote of a majority of the fully constituted membership of either Board shall be required to grant a variance.
- (vi) In granting any variance, the Board of Examiners and Appeals shall prescribe conditions and safeguards to assure conformity with the purposes of this ordinance. Violation of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.
- (vii) No variance shall be granted which will permit a use not permitted in the pertinent district by this ordinance.
- (viii) Any variance shall become void if:
 - a. The variance is not exercised within 120 days after being granted.
 - b. Any structure or characteristic of use permitted by variance is moved, removed or discontinued.
- (ix) A request for variance may be initiated only by the property owners, and none other.
- (x) The Board of Examiners and Appeals shall render its decision on any variance application within a reasonable time. The Board's action shall be final unless appeal is taken to the Board of Adjustment within 20 days by filing with the City Manager a written notice of appeal specifying the grounds thereof.

Sec. 23-21 (I) (Continued)

The action of the Board of Examiners and Appeals may be appealed to the Board of Adjustment by any party affected by the proceedings or by a city official. Upon appeal, the records of the Board of Examiners and Appeals concerning the case and the decision thereon shall be given to the Board of Adjustment.

Only those issues specified in the appeal notice shall be Considered by the Board of Adjustment. Only the record of the Board of Examiners and Appeals concerning the specific issue shall be considered. No new evidence or issues shall be considered by the Board of Adjustment.

(J) Appeals from Board of Adjustment.

An appeal from any action, decision, ruling, judgment or order of the Board of Adjustment may be taken by any person or persons, jointly or severally aggrieved, or by any taxpayer or any officer, department, board or bureau of the city, to the Superior Court of the State of Alaska, Third Judicial District. Upon filing a proper Complaint in the Superior Court and by filing with the City Clerk written notice within thirty days of the action appealed from, an appeal shall be considered timely otherwise the decision of the Board is final. When the notice of appeal is timely and properly filed the City Clerk shall at once transmit to the Superior Court Clerk the original, or certified copies, of all the papers constituting the record in the case, together with the order, decision or ruling of the Board. A transcript of the electronic recording of the proceedings before the Board of Adjustment shall be filed with the record on appeal. The cost of the transcript shall be borne by the City.

(K) Procedure for Zoning Amendments.

In amending this ordinance except where otherwise provided, the procedure shall be as follows:

Sec. 23-21 (K) (Continued)

- (i) A City zoning map amendment or a zoning ordinance amendment may be initiated by:
- a. City Council.
 - b. The Planning Commission.
 - c. Any department or agency of the City.
 - d. Any individual, corporation or agency, other than those listed in (a), (b), (c) above.

Except for (a), (b), and (c) above, any request for an amendment shall be submitted in writing to the Planning Commission, through the Planning Department along with payment of fees and charges established by City Manager regulation.

Except for the extension of existing district boundaries no change in any use district classification on the City zoning map shall be considered which involves an area of less than two acres.

The City Planning Commission and the Board of Adjustment shall not consider any proposed amendment to the City Zoning map which is substantially the same as any other proposed amendment submitted within the previous nine months and which has been rejected.

- (ii) The Planning Commission shall study such proposals to determine:
- a. The need and justification for any proposed change of this ordinance on the zoning map.
 - b. The effect of a use district change, if any, on the property and on surrounding properties. The Planning

Sec. 23-21 (K) (Continued)

Commission shall conduct a duly advertised public hearing for this purpose.

- c. The amount of undeveloped land in the general area and in the city having the same district classification as that requested or affected by an ordinance amendment.
 - d. The relationship of the proposed zoning map or ordinance amendment to the purposes of the general planning program, with appropriate consideration as to whether the proposed change will further the purposes of this ordinance and the comprehensive plan.
- (iii) Within thirty days from the date of the first meeting after any proposed zoning amendment is submitted to it, the Planning Commission shall submit its report and recommendations to City Council if the Commission approves the proposed amendment. Such recommendation of the Planning Commission shall be advisory only, and shall not be binding on City Council. If the Planning Commission denies any proposed amendment, its action shall be final unless appealed to Council within 20 days by any person aggrieved.
- (iv) Before acting on any proposed amendment, the Planning Commission shall hold a public hearing. The schedule for holding public hearings shall be as follows:

Regular public hearings on proposed zoning amendments, if any, shall be held monthly. The closing date for filing an amendment proposal with the Planning Commission shall be four weeks prior to the next scheduled zoning hearing, provided, however, that in

Sec. 23-21 (K) (Continued)

cases where a study period of more than four weeks is established for a proposed amendment by mutual agreement between the applicant and the Planning Commission, the hearing may be deferred.

- (v) Notice of hearings on zoning map or ordinance amendments shall be published at least 10 days prior to the hearing in a newspaper of general circulation in the city. The notice shall indicate the time and place of the hearing and shall include an appropriate description of each proposed amendment. In addition;
 - a. When a proposed amendment affects the district classification of a particular piece of property, the administrative official shall cause a sign or signs to be erected on the property at least 10 days prior to the hearing, indicating the nature of the change proposed, identification of the property, and the date, time and place of the hearing.
 - b. When a proposed amendment affects the district classification of more than one piece of property, the administrative official shall cause signs to be erected at or near the outer edges of the area affected, with additional signs as appropriate to the circumstances of the case, at least 10 days prior to the hearing, indicating the nature of the change proposed, identification of the specific properties or the outer limits of the area (as may be appropriate) and the date, time and place of the hearing.
 - c. In addition to notice as indicated above, due notice shall be given to parties in interest. Special notice appropriate to the circumstances of

Sec. 23-21 (K) (Continued)

the case shall be mailed to owners and or occupants of the surrounding property, or to others who might be considered to be substantially affected by the proposed change. "Parties in interest" will be construed to include persons within a 350' radius in any direction from the outermost boundary of the area proposed for change.

(vi) Protest. If there is a protest against a change, signed by the owners of 30 per cent or more either of the area of the lots included in such proposed change or adjoining any side of the territory included in the proposed change, or opposite to it and separated only by an alley or street, the amendment shall not become effective except by the favorable vote of members of the City Council.

(v(i)) The City Planning Commission may recommend, and the City Council may make modifications of any proposed amendment provided that such change in the amendment would be in the public interest and provided further that such modification shall not change the district classification of any property not included in the advertised proposal nor make any regulation more restrictive than the advertised proposal.

(L). Fees, Charges and Expenses.

The City Manager with the approval of Council shall establish by regulation a schedule of fees, charges and expenses and a collection procedure for certificates of compliance, appeals, applications for variances and special exceptions, and other matters pertaining to administering this ordinance. The schedule of fees shall be posted in the office of the administrative official. No action on any permit, certificate, special exception, variance or

Sec. 23-21 (L) (Continued)

amendment shall be taken unless and until applicable fees, charges and expenses have been paid in full.

(M) Complaints, Remedies and Penalties.

- (i) Whenever a violation occurs, or appears to have occurred, of the terms of this ordinance, or of regulations, conditions or safeguards applied pursuant to the terms of this ordinance, any person may file a report of an apparent violation stating the causes and the basis thereof with the administrative official. The administrative official shall record the report properly, investigate

promptly, and take action or cause action to be taken to correct or prosecute any violation as needed.

- (ii) If there is a violation of the terms of this ordinance, or of any regulations, conditions or safeguards adopted in accordance therewith, the administrative official, City Council, City Attorney, City Manager or any person aggrieved may institute or cause to be instituted any appropriate criminal or civil action or proceeding to prevent, enjoin, abate, remove or punish such violation.
- (iii) Any person violating the provisions of this ordinance, or of regulations, conditions or safeguards adopted pursuant to the provisions of this ordinance, shall be deemed guilty of an offense under this Code and upon conviction shall be punishable by a fine of not more than \$300 and imprisonment for not more than 30 days, or both such fine and imprisonment. Each day such violation occurs shall be considered a separate offense.

The owner, general agent, lessee or tenant of any building, structure, premises or any part thereof in which such violation has been committed or exists, and any architect, surveyor, builder, realtor, engineer, contractor or other person who commits, participates in, assists in, or maintains violation of this ordinance or any regulation, condition or safeguard may each be found guilty of a separate offense and upon conviction suffer the penalties herein provided.

Nothing herein contained shall prevent the city from taking such other action as is necessary to prevent or remedy any violation.

(N) Minimum Requirement of Ordinance.

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

Sec. 23-21 (N) (Continued)

adopted rules, regulations, ordinances, deed restrictions, covenants or contracts, the most restrictive, or that imposing the higher standards, shall govern.

Sec. 23-22 SPECIAL PROVISIONS.

(A) Emergency Legislative Powers of Council.

Nothing contained in this ordinance shall preclude the exercise of the emergency legislative powers of the Council to amend any provision of this ordinance upon its own motion for good cause shown.

(B) Special Exceptions by Direct Council Action.

The city council may, after proper notice and public hearing as hereinafter provided, permit the following exceptions in any district unless otherwise herein specified, where such uses are deemed desirable or essential to the public convenience and welfare, and are in harmony with the various elements or objectives of the comprehensive city plan and the zoning ordinance. The council may impose such conditions and safeguards as it deems necessary to protect the best interests of surrounding property or neighborhood and the comprehensive city plan and zoning ordinance.

No such exception shall be granted except after public hearing, notice of which shall be published in a display type advertisement in a newspaper of general circulation within the city at least five (5) days but not more than ten (10) days prior to the date of hearing. This requirement shall be in addition to any notice and publication requirements of state law. In order to defray the expenses connected with the publication of notice and consideration of application for an exception, the person filing such application shall pay to the city clerk a fee of twenty-five dollars (\$25.00). A copy of the receipt for such fee shall be attached to the application.

In addition to the required newspaper notice of the public hearing, the city clerk shall serve notice of the public hearing on all property tax-record owners of property located within the city and within three hundred (300) feet of the entrance to any proposed

Sec. 23-22 (B) (Continued)

location of an exceptional use for alcoholic beverages. Such notice may be served by first-class certified mail, sent to the last known address of tax record, or personally on the said tax record owners. At the time of the application, the applicant for an exceptional use for the location of an alcoholic beverage business shall pay to the city clerk the sum of twenty-five dollars (\$25.00) to defray the cost of service of such notice in addition to the twenty-five dollars (\$25.00) fee for the newspaper publication. A copy of the receipt for such sum shall be attached to the application.

(i) Exceptional uses permitted:

a. Alcoholic beverage dispensaries, retail liquor stores, and restaurants serving alcoholic beverages in B-1, B-2, B-2H, B-3, I-1 and I-2 districts; and clubs, fraternal organizations, and patriotic organizations, holding club licenses, in any use district.

(C) Continuity of prior special exceptions and variances:

Any valid special exception or variance granted prior to the enactment of this ordinance shall be permitted to continue in accordance with such exception or variance and is deemed to be in conformity with this ordinance.

(D) City Manager Regulations:

The City Manager with the approval of the Planning Commission and the Council may enact and adopt regulations as needed for the purposes of effecting the administration and intent of this ordinance. Such regulations shall include but not be limited to platting procedures, subdivision and resubdivision procedures including subdivision public works agreements, vacation of streets and other property dedicated

