



**CITY *of* MERCER ISLAND**

**ZONING CODE**

**1960**



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An ORDINANCE establishing land use regulations and zones within the City of Mercer Island, State of Washington, adopting maps showing zone boundaries, and providing for the administration and enforcement of these regulations.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MERCER ISLAND:

SECTION 1. PURPOSE OF THESE REGULATIONS.

These regulations have been worked out in accordance with a comprehensive plan which the City of Mercer Island has adopted for its physical and other generally advantageous development, to implement such comprehensive plan insofar as such plan is intended to encourage the most appropriate use of land throughout the municipality, to lessen traffic congestion and accidents, to secure safety from fire, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to promote a coordinated development of the unbuilt areas, and to conserve and restore natural beauty and other natural resources, all pursuant to chapter 44, Laws of 1935, as amended, RCW 35.63.

SECTION 2. DEFINITIONS.

**ACCESSORY BUILDING:** A subordinate building, such as a boathouse, carport, garage or toolshed, the use of which is incidental to that of the main building on the same lot. Where an accessory building is attached to and made a part of the main building for at least fifty (50) percent of the length of one of the abutting walls of such accessory building, it shall comply with provisions of this ordinance applicable to the main building.

**BUILDING:** Any structure having a roof, but excluding all forms of vehicles even though immobilized.

**BUILDING AREA:** The part of a lot upon which a building may be erected and maintained without violating the yard requirements prescribed herein.

**BUILDING HEIGHT:** The vertical distance from the 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.

**CONDITIONAL USE:** A use listed among those classified in any given zone but authorized to locate only after the granting of a conditional use permit imposing such performance standards or other conditions as will assure compatibility with other uses in the vicinity.

**CORNER LOT:** A lot located at the junction of and fronting on two or more intersecting streets.

**FENCE:** A barrier composed of posts or piers connected by boards, rails, panels or wire, or a masonry wall, designed to enclose space or separate parcels of land, but excluding retaining walls.

**GRADE:** The average of the finished ground level at the center of all walls of a building.

**INTERIOR LOT:** A lot which is not a corner lot.

**LOT:** A parcel of land, plotted or unplotted; or several contiguous lots or parcels, when built upon or occupied or used as a unit or held as a unit for development or transfer of ownership.

**NONCONFORMING BUILDING OR USE:** A building of use lawfully established, that does not conform with subsequently adopted restrictions of the zone in which it is situated.

**PARKING SPACE;** A space within or without a building, at least ten (10) feet wide, twenty (20) feet long and two hundred (200) square feet in area, exclusive of access drives, aisles, ramps, columns, living areas or work areas, having adequate access from a public street, and adequate provision for ingress and egress from the space itself, for the temporary parking of one (1) motor car or truck.

RECREATIONAL AREA:

Commercial: An area including facilities and equipment for recreational purposes, such as a swimming pool, tennis courts, a golf course, or a playground, operated for profit.

Noncommercial: An area including facilities and equipment for recreational purposes, such as a swimming pool, tennis courts, a golf course, or a playground, maintained and operated by a nonprofit club or organization with specified limitations upon the number of members or limited to residents of a block, subdivision, neighborhood, community or other specific area of residence for the exclusive use of members and their guests.

Private: An area including facilities and equipment for recreational purposes, such as a swimming pool, tennis courts, a golf course, or a playground, maintained by an individual for the sole use of his household and guests, located at or adjacent to his residence, not for profit or in connection with any business operated for profit.

VARIANCE: A determination in the case of a particular lot or tract to require only substantial compliance with some provision of these regulations pertaining to building height limits, building site area requirements, yard requirements, loading space requirements or parking requirements, where because of special circumstances such lot or tract could not be used and enjoyed in substantially the same manner as other property in the same zone, if such provision were strictly applied or enforced.

YARD: An open, unoccupied space, unobstructed from the ground to the sky, on the lot on which a building is situated, required to be kept open by the yard requirements prescribed herein.

SECTION 3. ESTABLISHING ZONES AND REGULATING THE USES OF LAND THEREIN.

3.01 In order to carry out the purpose of this Ordinance in the interest of public health, safety, morals and general welfare, the following zone classifications are established:

<u>ZONE</u>	<u>ABBREVIATED DESIGNATOR</u>
Residential Single Family Zone	R-8.4
Residential Single Family Zone	R-9.6
Residential Single Family Zone	R-12
Residential Single Family Zone	R-15
Residential Two-Family Zone (Duplex)	R-2A
Residential Multiple Family Zone	R-2
Residential Multiple Family Zone	R-3
Business Parking Zone	B-P
Business Neighborhood Zone	B-N
Business Zone	B-1
Commercial Office Zone	C-0
Parks and Playgrounds Zone	P

3.02 (Reserved)

3.03\* The location and boundaries of the various zones as hereafter determined shall be shown and delineated on zone maps covering portions of the City, each of which said maps shall, upon its final adoption, be a part of this Ordinance either by adoption as a part hereof or by amendment hereto.

3.04 Each zone map showing the classification and boundaries, after its final adoption as required by law, shall become a part of this Ordinance and said map and all notations, and other information shown thereon shall thereafter be as much a part of this Ordinance as if all the matters and information set forth on said map were fully described herein.

3.05 A zone map may, for convenience, be divided into parts and each part may, for purposes of identification, be subdivided into units. Such parts may be separately and successively adopted by means of an amendment to this Ordinance and, as adopted, such zone map, or its parts, shall become a part of this Ordinance.

3.06 Changes in the boundaries of a zone shall be made by Ordinance adopting an amended map, or part of said zone map.

3.07 When uncertainty exists as to the boundaries of any zones shown on said zone maps, the following rules shall apply:



- (a) Where such boundaries are indicated as approximately following street lines or lot lines, such lines shall be construed to be such boundaries.
- (b) In unsubdivided property and where a zone boundary divides a lot, the location of such boundaries, unless the same are indicated by dimensions, shall be determined by use of the scale appearing on such zone map.
- (c) Where property abuts a lake, river or body of water, the land use classification extends to the inner harbor line and in the areas where no harbor line has been defined, to a line which the Army Engineers would define as a line of navigability.
- (d) In case any uncertainty exists, the Planning Commission shall recommend and the City Council shall determine the location of boundaries.
- (e) Where a public street is officially vacated or abandoned, the regulations applicable to abutting property shall apply to such vacated or abandoned street.

3.08 The boundaries of such zones as are shown upon any zone map adopted by this Ordinance or amendments thereto, are hereby adopted and approved and the regulations of this Ordinance governing the uses of land, buildings and structures, the height of buildings and structures, the size of yards about buildings and structures, and other matters as herein set forth are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown upon each zone map.

3.09 EXCEPT AS HEREINAFTER PROVIDED:

- (a) No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used for any purpose or in any manner other than a use listed in this Ordinance or amendments thereto as permitted in the zone in which such land, building, structure or premises is located.
- (b) No building or structure shall be erected nor shall any existing building or structure be moved, reconstructed or structurally altered to exceed in height the limit established by this Ordinance or amendments thereto for the zone in which such building or structure is located.
- (c) No building or structure shall be erected nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the building site requirements and the area and the yard regulations established by this Ordinance or amendments thereto for the zone in which such building or structure is located.

- (d) No yard or other open spaces provided about any building or structure for the purpose of complying with the regulations of this Ordinance or amendments thereto shall be considered as providing a yard or open space for any other building or structure.
- (e) A detached garage may be erected within the rear yard setback.

SECTION 4. R-8.4 RESIDENTIAL SINGLE FAMILY ZONE.

4.01 USES PERMITTED:

1. Single family dwelling unit.
2. Existing cemeteries.
3. Existing railroad rights-of-way, including passenger shelter stations, but not including switching, storage, freight yards or sidings.
4. Private conservatories and structures for plants and flowers.
5. Electrically powered fixed mechanical equipment for private utilities of a building site.
6. Off-street parking space and private garages, as provided in Section 16, General Provisions.
7. Lodgers not to exceed two (2).
8. Recreational area -- Private.
9. Accessory buildings and uses which are incidental to that of the main building.
10. Public schools and private schools for academic instructions but subject to the following conditions:
  - (a) Must be located thirty-five (35) feet or more from any other lot in an "R" zone with a minimum building line setback of forty-five (45) feet from any public right-of-way.
  - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each elementary classroom and for high schools at a ratio of one (1) parking space per classroom plus one (1) parking space per ten (10) students.
  - (c) Not more than thirty-five (35) per cent coverage of the site area with structures.
  - (d) A minimum area of one-fourth (1/4) of an acre must be provided as an area abutting or adjacent to and in one (1) usable unit devoted exclusively to playfield purposes.
11. Churches but subject to the following conditions:
  - (a) Must be located thirty-five (35) feet or more from any other lots in an "R" zone.
  - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each five (5) seats in the chapel or nave.
  - (c) Not more than thirty-five (35) per cent coverage of the site area with structures.

4.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A  
CONDITIONAL USE PERMIT:

1. Public utility and governmental buildings or structures including art galleries, libraries and museums:
  - (a) Must be located twenty (20) feet or more from any other lot in an "R" zone.
  - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each two hundred (200) square feet of gross floor area.
  - (c) Not more than thirty-five (35) per cent coverage of site area with structures.
  - (d) Public utilities must be shielded from abutting properties and highways by a sight obscuring protective strip of trees or shrubs.
  
2. Recreational Area -- Non-Commercial:
  - (a) Must be located near the members or community it serves. A central location with good access to the arterial system is desirable.
  - (b) Must meet requirements as set forth by the local health authorities.
  - (c) Off-street parking must be provided at a ratio of one (1) space for each five (5) members.
  - (d) Adequate screening must be provided where the area abuts any other lot in an "R" zone.
  - (e) Flood lighting must be shielded to minimize glare against abutting property or passing traffic.
  - (f) Must be located on an adequate tract of usable land, with buildings and active play area located thirty-five (35) feet or more from any other lot in an "R" zone.
  - (g) On recommendation by the Planning Commission, the City Council may impose other requirements.

4.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

4.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than eighty-four hundred (8,400) square feet; lot width shall be not less than sixty (60) feet fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each single family dwelling unit shall be eighty-four hundred (8,400) square feet.

4.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot line:	Five ( 5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 5. R-9.6 RESIDENTIAL SINGLE FAMILY ZONE.

5.01 USES PERMITTED:

1. Any R-8.4 (4.01) zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.
2. One accessory building for the housing of domestic animals and fowl, having a floor area not to exceed thirty-six (36) square feet for each building site and located not less than sixty-five (65) feet from any place of habitation other than the owners and provided further that the roaming area shall be fenced and located not less than thirty-five (35) feet from any adjacent place of human habitation.

5.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any 4-8.4 (4.02) zone conditional use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.

5.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

5.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than ninety-six hundred (9,600) square feet; lot width shall be not less than seventy-five (75) feet, fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each single family dwelling unit shall be ninety-six hundred (9,600) square feet.

5.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting an interior lot line:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 6. R-12 RESIDENTIAL SINGLE FAMILY ZONE.

6.01 USES PERMITTED:

Any R-8.4 (4.01) or R-9.6 (5.01) zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.

6.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any R-8.4 (4.02) or R-9.6 (5.02) zone conditional use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.

6.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

6.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than twelve thousand (12,000) square feet; lot width shall be not less than seventy-five (75) feet, fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each single family dwelling unit shall be twelve thousand (12,000) square feet.

6.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot line:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 7. R-15 RESIDENTIAL SINGLE FAMILY ZONE:

7.01 USES PERMITTED:

1. Any R-8.4 (4.01), R-9.6 (5.01) or R-12 (6.01) Zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.
2. Guest house (one), with not more than two bedrooms, having no kitchen facilities, used or designed for use primarily for sleeping quarters.

7.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any R-8.4 (4.02), R-9.6 (5.02) or R-12 (6.02) zone conditional use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.

7.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

7.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than fifteen thousand (15,000) square feet; lot width shall be not less than ninety (90) feet, fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each single family dwelling unit shall be fifteen thousand (15,000) square feet.

7.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot line:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.



SECTION 8. R-2A RESIDENTIAL TWO FAMILY ZONE.

8.01 USES PERMITTED:

1. Any use permitted in R-8.4 through R-15 Residential Single Family Zone.
2. Two-family dwellings (Duplexes).
3. Swimming pools, tennis courts, athletic or recreational club-houses or other similar uses when incidental to the principal use of the property and used solely by the owner, tenants and their guests.

8.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any conditional use permitted in an R-8.4 (4.02) zone.

8.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

8.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than eighty-four hundred (8,400) square feet; lot width shall be not less than sixty (60) feet, fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each duplex shall be eighty-four hundred (8,400) square feet.

8.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth: Twenty (20) feet or more

Side yard abutting a street: Ten (10) feet or more

Side yard abutting interior lot line: Five (5) feet or more

Rear yard depth: Twenty-five (25) feet or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 9. R-2 MULTIPLE FAMILY RESIDENTIAL ZONE.

9.01 USES PERMITTED BUT SUBJECT TO THE FOLLOWING CONDITIONS:

1. Any use permitted in R-8.4 through R-15 and R-2A zones.
2. Clubs and fraternal societies whose chief activity is not a service customarily carried on as a business.
  - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each seventy-five (75) square feet of gross floor area.
  - (b) Not more than thirty-five (35) per cent coverage of the site area with structures.
  - (c) One (1) unlighted sign no larger in area than six (6) square feet identifying the premises on which located, and/or the occupant of the premises on which located, and subject to the setback limitations applicable to other structures on the lot.
3. Flats and apartments:
  - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each family unit contained therein.
  - (b) One (1) sign identifying the premises on which located or the occupant of the premises shall be permitted upon issuance of a building permit.
4. Fraternity and sorority houses, boarding houses and the renting of rooms for lodging purposes only.
  - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each three (3) occupants.
  - (b) One (1) unlighted sign no larger in area than two (2) square feet identifying the premises on which located, or the occupant of the premises, and subject to the setback limitations applicable to other structures on the lot.
5. Hotels with stores therein.
  - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each three (3) rooms plus the required parking spaces for the businesses contained therein.
  - (b) Business uses must be conducted and entered entirely from within the building.
  - (c) Not more than thirty-five (35) per cent coverage of the area with structures.
  - (d) One (1) sign identifying the hotel usage of the premises on which located shall be permitted upon the issuance of a building permit.

6. Hospitals, sanitariums, institutions for philanthropic and eleemosynary uses other than correction.
  - (a) Must be located twenty (20) feet or more from any other lot in an "R" zone.
  - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each five (5) regular beds.
  - (c) Not more than thirty-five (35) per cent coverage of the site area with structures.
  - (d) One (1) unlighted sign no larger in area than six (6) square feet identifying the premises on which located, or the occupant of the premises on which located, and subject to the setback limitations applicable to other structures on the lot.
  
7. Rest Homes.
  - (a) Must meet conditions prescribed by State Law.
  - (b) One (1) unlighted sign no larger in area than two (2) square feet identifying the premises on which located, or the occupant of the premises and subject to the setback limitations applicable to other structures on the same lot.
  - (c) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each five (5) regular beds with a minimum number of four (4) spaces.
  - (d) Not more than thirty-five (35) per cent coverage of the site area with structures.
  - (e) Must meet drainage and health standards of the City and the State of Washington.
  
8. Day nurseries and pre-school uses.
  - (a) Must be located twenty (20) feet or more from any other lot in an "R" zone.
  - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each classroom with a minimum of two (2) parking spaces.
  - (c) One (1) unlighted sign no larger in area than two (2) square feet identifying the premises on which located or the occupant of the premises and subject to the setback limitations applicable to other structures on the lot.
  - (d) Not more than thirty-five (35) per cent coverage of the site area with structures.
  - (e) Must meet conditions prescribed by State Law.
  
9. Structures for use of licensed practitioners (physicians, dentists, etc.)
  - (a) Must be located twenty (20) feet or more from any other lot in an "R" zone.
  - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each two-hundred (200) square feet of gross floor area.
  - (c) Not more than thirty-five (35) per cent coverage of the site area with structures.

- (d) Structure to be consistent with the character of the surrounding area.
- (e) Only one (1) sign no larger in area than seventy-two (72) square inches bearing only the name and occupation and located within the setback limitations applicable to other structures on the lot.

10. Community clubs.

- (a) Must be located thirty-five (35) feet or more from any other lot in an "R" zone.
- (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each seventy-five (75) square feet of gross floor area.
- (c) Not more than thirty-five (35) per cent coverage of the site with structures.

9.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

1. Institutions devoted in whole or part to the treatment of persons suffering from mental illness or habitual alcoholism.

- (a) Establish and maintain security measures to safeguard the general public from possible injury or being molested.
- (b) Structures must be located one-hundred (100) feet or more from any other lot in an "R" zone.
- (c) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each five (5) regular beds.
- (d) Not more than thirty-five (35) per cent coverage of the site with structures.
- (e) One (1) unlighted sign no larger in area than six (6) square feet identifying the premises on which located, or the occupant of the premises on which located and subject to the setback limitations applicable to other structures on the lot.
- (f) Must be in compliance with all pertinent State and City Health Regulations.

2. Motels.

- (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each sleeping unit.
- (b) One (1) sign identifying the premises on which located or the occupant of the premises shall be permitted.
- (c) Coffee shops when operated entirely from within the building as an incidental use to the principal use of the property and used solely by the owner, tenants and their guests. No sign advertising such coffee shop will be allowed.
- (d) Has frontage on a primary state highway.

9.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet unless otherwise approved by the City Council on recommendation of the Planning Commission.

9.04 BUILDING SITE AREA REQUIREMENTS:

The minimum area of any lot shall be eighty-four hundred (8,400) square feet with minimum width fronting on a public right-of-way or at the building line of sixty (60) feet, and a minimum lot depth of eighty (80) feet; except that apartments, dwelling groups or multiple family dwellings shall have an additional one-thousand (1,000) square feet of site area for each family or housekeeping unit in excess of one (1).

9.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot lines:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

**SECTION 10. R-3 MULTIPLE FAMILY RESIDENTIAL ZONE.**

**10.01 USES PERMITTED BUT SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Any use permitted in R-8.4 through R-15, R-2A and R-2 zones.
2. Motels and motor courts.
  - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each sleeping unit.
  - (b) One (1) sign identifying the premises on which located or the occupant of the premises shall be permitted.
  - (c) Coffee shops when operated entirely from within the building as an incidental use to the principal use of the property and used solely by the owner, tenants and their guests. No sign advertising such coffee shop will be allowed.

**10.02 BUILDING HEIGHT LIMIT:**

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

**10.03 BUILDING SITE AREA REQUIREMENTS:**

The minimum area of any lot shall be eighty-four hundred (8,400) square feet with a minimum width fronting on a public right-of-way or at the building line of sixty (60) feet, and a minimum lot depth of eighty (80) feet; that any use must meet the requirements of the zone in which previously allowed and motels and motor courts shall have an additional one-thousand (1,000) square feet of site area for each family or housekeeping unit in excess of one (1).

**10.04 YARD REQUIREMENTS:**

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot lines:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

Motor courts, when built with all their outside entrances from the front of the building only and opening into a court, may reduce the rear yard depth to not less than ten (10) feet. Motor courts over one (1) story high shall increase their side yard setback to ten (10) feet and their rear yard setback to twenty (20) feet.

SECTION 11. B-P BUSINESS PARKING ZONE.

11.01 USES PERMITTED:

1. Restricted or public parking of automobiles or trucks whether for fee or without charge.
2. Parking area for places of public assembly.
3. Parking area for all types of business, commercial or manufacturing areas where cars are parked.
4. Trees, landscaping, walks, screening, light standards and equipment and other similar uses provided they do not reduce or impair the required parking area.
5. Service station pump islands and canopies not including signs, provided they meet yard requirements of Section 13, Primary Business Zone, Sub-Section 13.04, Yard Requirements.

11.02 RESERVED.

11.03 LOADING SPACE REQUIREMENTS:

An off-street loading space, having access to a public thoroughfare, shall be required adjacent to each business building, hereafter erected or enlarged, if the use of such building entails deliveries to it or shipments from it, and such loading space shall be of adequate size to accommodate the maximum number and size of vehicles simultaneously loaded or unloaded, in connection with the business conducted in such building. No part of the truck or van using the loading space may project into the public right-of-way.

11.04 PARKING SPACE REQUIREMENTS:

For a new building or structure, or for the enlargement or increase in size of any existing building or structure, there shall be established and maintained a permanent off-street parking area beginning within five-hundred (500) feet of the front entrance thereof.

11.05 MINIMUM PARKING AREA CAPACITY:

1. Food stores, markets and shopping centers:
  - (a) Having not more than two-thousand (2,000) square feet of gross floor area exclusive of basement shall provide one (1) parking space for the proprietor and each regular employee with a minimum of two (2) parking spaces.
  - (b) Having more than two-thousand (2,000) square feet but not more than five-thousand (5,000) square feet of gross floor area exclusive of basement shall provide one (1) parking space for each two-hundred (200) square feet of gross floor area of the building.
  - (c) Having more than five-thousand (5,000) square feet of gross floor area exclusive of basement shall provide one (1) parking space for each two-hundred (200) square feet of gross floor area of the building.
2. Restaurants, taverns and any establishment for the sale and

consumption on the premises of food, alcoholic beverages or refreshments shall provide one (1) parking space for each one-hundred (100) square feet of gross floor area of the building.

3. Other retail establishments, such as furniture, appliance, hardware stores, clothing, shoe repair or service shops shall provide one (1) parking space for each four-hundred (400) square feet of gross floor area of the building with a minimum of two (2) spaces.
4. Real estate offices shall provide one (1) parking space for each one (1) employee, plus one (1) parking space for each two-hundred (200) square feet of gross floor area with a minimum of four (4) spaces.
5. Theaters shall provide one (1) parking space for each four (4) fixed theatre seats and be subject to review by the Planning Commission.
6. Banks, business and professional offices including animal hospitals or clinics shall provide one (1) parking space for each two-hundred (200) square feet of gross floor area of the building.
7. Undertaking establishments including mortuaries, funeral homes and crematoriums shall provide one (1) parking space for each five (5) seats in the chapel or nave.
8. Bowling alleys shall provide five (5) parking spaces for each alley.
9. Stadiums, sports arenas, auditoriums and other places of assembly with fixed seats shall provide one (1) parking space for each four (4) seats.
10. Dance halls, exhibition halls and places of assembly without fixed seats shall provide one (1) parking space for each seventy-five (75) feet of gross floor area of the building.
11. Commercial recreation places such as skating rinks shall provide one (1) parking space for each one-hundred (100) square feet of gross floor area of the building.
12. Wholesale stores, warehouses, storage buildings, motor vehicles or machinery sales shall provide one (1) parking space for each two (2) employees with a minimum of six (6) parking spaces.
13. Manufacturing uses including research and testing laboratories, creameries, soft drink bottling establishments, bakeries, canneries, printing and engraving shops shall provide one (1) parking space for three (3) employees with a minimum of six (6) spaces.



11.06 UNSPECIFIED USES:

In the case of use not specifically mentioned in this section, the requirements for business parking facilities shall be the same as the above mentioned use which in the opinion of the Planning Commission shall be deemed most similar.

11.07 MIXED OCCUPANCIES:

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. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for cooperative use.

11.08 COOPERATIVE PROVISION:

Nothing of this section shall be construed to prevent cooperative provision of off-street parking facilities for two or more buildings or uses, provided that the total of such off-street parking spaces supplied cooperatively shall not be less than the sum of the requirements for the various uses computed separately. None of the above provisions shall prevent the overlapping cooperative use of parking facilities when the times during which such facilities are used are not conflicting.

11.09 BUILDING PERMITS:

Before the granting of a building permit for any new building or structure, or for an enlargement thereof, or change of use in any building hereafter constructed involved in any of the aforementioned uses, the applicant for said building permit shall present evidence in writing that arrangements have been made to provide off-street parking to be zoned B-P (Business Parking) in accordance with the above provisions, or that the required amount of parking facilities classified as a business parking area on the county zoning maps has been provided by a satisfactory written contract, or present evidence of participation in an association which is providing adequate public off-street parking so classified.

11.10 PARKING AREA REQUIREMENTS:

All off-street parking areas zoned B-P (Business Parking), or public off-street parking areas required under sub-section 11.09, Building Permits, shall be graded, surfaced and maintained to the minimum standards contained in the City's standard plans and specifications for private work on county right-of-way. The party seeking a B-P (Business Parking) zoning shall, submit a plan of said proposed parking area as to type of surfacing and whether or not the area will be fenced or screened with shrubbery and/or lighted. The Planning Commission after consultation with the City Engineer's Office will then refer the parking area plan with its recommendations to the City Council for final action.

SECTION 12. B-N NEIGHBORHOOD BUSINESS ZONE.

12.01 USES PERMITTED:

1. Any use permitted in R-8.4 and R-2 residence zones provided said uses comply with area, frontage and setback regulations for the zone in which such use is permitted.
2. Barber shops and beauty shops.
3. Business or professional studios and offices.
4. Hand laundries, clothes cleaning agencies and pressing shops.
5. Light repair, battery service and tire shops, service stations and self-contained public garages. Open spaces in this zone may not be used for storage display or sale of used vehicles or equipment.
6. Locksmiths, shoe repairing, tailoring and other light repair shops.
7. Printing establishments and newspaper printing.
8. Real estate sales office.
9. Restaurants, cafeterias, catering.
10. Retail stores and personal service shops.
11. Banks and theatres.
12. Recreational Area Commercial.

12.02 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet without approval of the City Council upon recommendation of the Planning Commission.

12.03 BUILDING SITE AREA REQUIREMENTS:

No requirements for non-residential buildings. Residential structures shall comply with the site requirements for that use.

12.04 YARD REQUIREMENTS:

Non-residential structures shall have a minimum setback from any public right-of-way of ten (10) feet, except as provided in Section 16, Sub-Section 16.04, Item 3.

Residential structures shall meet the yard requirements for that use except that where located on the second story or more of a business use structure the minimum setback requirement shall be the same as for non-residential structures.

12.05 PARKING REQUIREMENTS:

Off-street parking shall be provided and maintained as prescribed in Section 11, B-P Business Parking Zone.

SECTION 13. B-1 PRIMARY BUSINESS ZONE.

13.01 USES PERMITTED:

1. Any use permitted in R-8.4 through R-15, R-2, R-3 and B-N zones, provided said use comply with area, frontage and setback regulations for the zone in which such use is permitted.
2. Advertising signs and canopies approved by the Planning Commission.
3. Animal hospitals and clinics when structurally enclosed.
4. Banks.
5. Barber shops, beauty shops and personal service shops.
6. Beer parlors, bars, taverns, cabarets or any other similar place where alcoholic beverages of any kind are dispensed or sold.
7. Business or professional offices or studios.
8. Custom cabinet work using total power not in excess of two (2) horsepower with not more than three (3) persons engaged at any one time in the fabricating, repairing or processing of materials.
9. Decorating shops.
10. Electric shops.
11. Employment agencies.
12. Hand laundries, clothes cleaning and pressing.
13. Locksmith, shoe and other repair shops.
14. Lumber, coal, fuel yards and feed stores provided that when unhoused they shall be surrounded by an eight (8) foot solid wall or sight obscuring fence herein known as a structure.
15. Printing establishment and newspaper printing.
16. Public garages and repair shops.
17. Real estate sales office.
18. Restaurants, cafeterias, catering.
19. Retail stores and wholesale markets.
20. Retail trade shops or shops for custom work or the making of articles not manufactured by chemical processes, using total power not in excess of two (2) horsepower with not more than three (3) persons engaged at any one time in the fabricating, repairing or processing of materials.
21. Sales rooms or store rooms for motor vehicles and other articles of merchandise.
22. Service stations, except as provided in Sub-Section 13.04, Yard Requirements.
23. Tailors.
24. Telephone exchanges or telegraph offices.

25. Theaters, dance halls, bowling alleys and similar indoor uses subject to conditions of any applicable City license requirements and provided further that no moving picture theater, or any structure for the exhibition of moving pictures shall be permitted within three hundred seventy (370) feet of the property line of any public school grounds nor shall any dance hall, bowling alley, skating rink, or other commercial amusement places be permitted within five hundred (500) feet of the property line of any such park, school or playground. Said distance shall in all cases be measured along street margins and the same produced across street intersections by the shortest route.
26. Undertaking establishments including mortuaries, funeral homes and crematoriums.
27. Accessory uses and uses incidental to uses allowed in this zone.

13.02 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet without approval of the City Council upon recommendation of the Planning Commission.

13.03 BUILDING SITE AREA REQUIREMENTS:

No requirements for non-residential buildings. Residential buildings shall comply with the site area requirements for that use.

13.04 YARD REQUIREMENTS:

1. Non-residential buildings shall have a minimum setback from any public right-of-way of ten (10) feet, except service station pump islands which shall have a setback from the street line of at least fifteen (15) feet to provide for safe access to or from such street, and that the placement of the tanks in the setback be by revokable permit and that approved ingress and egress be required and except as provided in Section 27, Sub-Section 16.04, Item 3.
2. Residential buildings shall meet the yard requirements for that use except that where located on the second story or more of a business use building, the minimum setback requirements shall be the same as for non-residential structures.

13.05 PARKING REQUIREMENTS:

Off-street parking shall be provided and maintained as prescribed in Section 11, B-P Business Parking Zone.

SECTION 14. C-O COMMERCIAL OFFICES ZONE (Dispersal Type).

14.01 USES PERMITTED:

1. Any professional, legal, medical, governmental, engineering, administrative or commercial office use and may also include clinics, hospitals, research facilities, mortuaries, churches, lodges and similar semi-public uses.
2. Auxiliary uses directly related to the principal use, such as residences of watchmen or employees in training, special employee dormitories, employee cafeterias, auditoriums, service station in connection with authorized motor-pool facilities and similar uses.

14.02 REQUIREMENTS:

1. Uses shall be limited to those which are not objectionable beyond the boundaries of the zone by reason of offensive odors, dust, smoke, or gas.
2. The State Pollution Commission shall approve the method of waste disposal materials.
3. No use shall be permitted if it results in industrial noise above five (5) sones as measured at the outer boundary of this zone.
4. Necessary public rights-of-way shall be dedicated to the public either as a portion of a plat or upon acceptance of street dedication by the City Council and each building site shall front on or have access to such public rights-of-way.
5. To protect the contiguous uses, a protective strip of land bordering the external boundaries and along any frontage on public rights-of-way and devoted exclusively to the planting, cultivation, growing and maintenance of sight-obscuring trees, shrubs and plant life shall be established and maintained. The maintenance guarantees of such protective strips and the planned landscaping of the site may be bonded to the City in a reasonable amount if required by the City Council. In lieu of such protective strip, under appropriate circumstances, there may be substituted a use classification of the outer margin of this zone consistent with the use classification of the surrounding area.

6. Not more than thirty-five (35) per cent of any site area shall be occupied by structures, including outdoor storage area.
7. Outdoor storage facilities, including storage areas for official vehicles, shall be obscured by an approved architectural screen specified on the plot plan and approved by the Planning Commission.
8. A plot and building plan showing compliance with the provisions herein stated shall be filed with the Planning Commission and the building permit application shall comply with this approved plot plan.

14.03 BUILDING HEIGHT LIMIT:

1. Structures, excluding stacks, shall not exceed thirty-five (35) feet in height and/or three (3) stories except that when the site exceeds five (5) acres the height may be raised one (1) additional story for each additional two and one-half (2-1/2) acres within the site area boundaries when specifically approved by the City Council upon recommendation of the Planning Commission in accordance with the following standards:
  - (a) Approval by the Civil Aeronautical Administration.
  - (b) Adequate provision for ultimate off-street parking needs.
2. Outdoor storage facilities shall not exceed twenty (20) feet in height.

14.04 BUILDING SITE AREA REQUIREMENTS:

No requirement except conformance to plot and building plan on file with the Planning Commission.

14.05 YARD REQUIREMENTS:

1. The minimum setback from all rights-of-way shall be seventy-five (75) feet with a minimum side and rear yard setback of fifty (50) feet, the same to be clearly set out in the plot and building plan and upon the building permit application when filed.
2. Parking for employees may be provided in the side and rear yard setbacks as specified in Section 11, Business Parking, with customer parking permitted in the front yard area but in no case shall the customer parking dominate the front yard landscaping.

14.06 PROHIBITED USES:

1. Lighted signs or commercial advertising signs are prohibited but such prohibition shall not extend to reasonable signs relating to the use of the site stating the name and type of business of the occupant. The sign must be designed as a part of the architecture of the building.
2. Any residential use is prohibited in this zone.



SECTION 15. P PARK ZONE.

15.01 USES PERMITTED:

1. Public and private parks including resorts. Structures and accessory uses subject to approval by the City Council upon recommendation of the Planning Commission.
2. Public and private playgrounds.

15.02 BUILDING HEIGHT LIMIT:

No requirements.

15.03 BUILDING SITE AREA REQUIREMENTS:

No requirements.

15.04 YARD REQUIREMENTS:

No structure shall be erected closer than twenty (20) feet to any public right-of-way.

SECTION 16. GENERAL PROVISIONS.

16.01 USES PERMITTED:

1. In all single family residential zones there shall be permanently maintained parking space of sufficient size to accommodate automobiles or trucks owned by the resident on the same lot or within one-hundred (100) feet of such lot and owned by the lot owner provided that no more than one (1) such space is maintained for each three-thousand (3,000) square feet of lot area and provided further that the driveway in the front yard is used for not more than one (1) such parking space.
2. Detached accessory buildings in "R" zones shall conform to the front yard regulations pertaining to the main buildings in the above zones except that detached garages may be built to the side line, provided that a joint agreement be executed and filed with the Auditor of King County by the two property owners concerned. Provided further that where the slope of the front half of the lot is greater than one (1) foot rise or fall in seven (7) feet of run from the existing street elevation at the front property line, or where the elevation of the front half of the lot is more than four (4) feet above or below the existing street elevation at said property line, a garage may be built not less than ten (10) feet from the property line abutting any street, provided that no part of a movable extension of the structure shall extend into said restricted area, and whenever the said rise or fall is greater than eight (8) feet below or above the established street elevation at the property line as described above, then said garage may be built not less than five (5) feet from the property line abutting any street, provided that no part of a movable extension of the structure shall extend into said restricted area.
3. Utility rights-of-way lines such as high voltage transmission lines and rail lines shall be allowable in any zone upon issuance of a conditional use permit. This is not applicable to construction on public highways covered by franchise and/or permit.
4. Fences or Retaining Walls:
  - (a) Fences or retaining walls are allowed in "R", "B" or "P" zones as hereinafter provided.
  - (b) A fence not exceeding 42 inches in height may be located in any required yard.
  - (c) A fence not exceeding the height limit for structures in the zone may be located within the building area of the lot.

- (d) On interior lots a fence not exceeding seventy-two (72) inches in height may be located anywhere on the lot to the rear of the rear line of the required front yard.
- (e) On corner lots a fence not exceeding seventy-two (72) inches in height may be located anywhere on the lot to the rear of the rear line of the required front yard except that a fence shall not exceed forty-two (42) inches in height when located within the required side yard which abuts and runs parallel to a public street or within that portion of the required rear yard which abuts the front yard of an interior lot.
- (f) Where a retaining wall protects a cut below the natural grade, and is located on the line separating lots or parcels, such retaining wall may be topped by a fence or wall of the same height that would otherwise be permitted at the location if no retaining wall existed.
- (g) Where a retaining wall contains a fill, the height of the retaining wall built to retain the fill shall be considered as contributing to the permissible height of a fence provided that in any event a protective fence not more than forty-two (42) inches in height may be erected at the top of the retaining wall, and any portion of such fence more than seventy-two (72) inches above the foot of the wall be an openwork fence. An openwork fence is a fence in which the component solid portions are evenly distributed and constitute no more than fifty (50) per cent of the total surface area of the face of the fence.
- (h) The height of a fence other than a masonry wall shall be measured vertically from the top board, rail or wire to the ground directly below the fence, or to the top of the retaining wall, when the fence is mounted on a retaining wall. The height of a masonry wall used as a fence shall be measured vertically from the top surface of the wall to the lowest natural grade on either side of the wall.
- (i) Electric fences and barbed wire fences are not allowed.
- (j) No fence shall be located in any public right-of-way.
- (k) These provisions do not apply to fences required by state law to enclose public utilities, or to chain link fences enclosing school grounds or public playgrounds.

16.02 BUILDING HEIGHT LIMIT REQUIREMENTS:

1. Towers, gables, spires, scenery lofts, cupolas, water tanks, silos, artificial windbreaks, barns, windmills and similar structures and necessary mechanical appurtenances may be built and used and natural growth may be allowed to grow to a greater height than the limit established for the zone in which structures are located; provided, however, that no structure in excess of the allowable building height shall be used for sleeping or eating quarters or for any commercial purpose other than such use as may be incidental to the permitted uses of the main building.
2. Where the average slope of the lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation of the property line, an additional story will be permitted on the downhill side of any building.

16.03 BUILDING SITE AREA REQUIREMENTS:

1. Any lot may be used for a building site, regardless of area, subject to the other restrictions governing the zone in which it is located if:
  - (a) the lot is shown upon an official subdivision map which was duly approved and recorded in the office of the Auditor of King County prior to August 12, 1958; or
  - (b) the lot was conveyed by a deed executed and recorded in the office of the Auditor of King County prior to August 12, 1958; or
  - (c) the lot was contracted to be sold by a real estate contract which was executed and recorded in the office of the Auditor of King County prior to August 12, 1958, which contract was in full force and effect as of August 12, 1958.
2. The minimum lot frontage of irregularly shaped lots shall be measured at the front building line. No building will be permitted on a lot without frontage (a) on a public right-of-way or (b) on a private street or easement-of-way established by deeds of record and approved by the Planning Commission as substantially complying with the standards established for public streets.
3. The determination whether a lot complies with the building site area requirements shall exclude any part of such lot which is part of a public or private street or subject to an easement-of-way.

16.04 YARD REQUIREMENTS:

1. Highway Border Districts are hereby established and shall be a part of this Ordinance as each of such districts and maps are developed and approved by the City Council following a recommendation of the Planning Commission and the front, side and rear yard regulations shown on such maps shall supersede the yard requirements contained in other provisions of this Ordinance.
2. Where official highway maps show the future width greater than the dedicated width, then the front yard shall be measured from the margin of the future highway width.
3. Whenever at least fifty (50) per cent of all the property fronting on one side of a street between two intersecting streets is improved with buildings and the majority of all the buildings in said area have a front yard less or greater than the required minimum, then no new building on an interior lot shall be required to have a less or greater front yard than the average depth of the two front yards nearest on each side; the minimum front yard depth in no case shall be less than ten (10) feet. Yard requirements governing corner lots, whether the streets are improved or not, whether the balance of the property fronting on the street is built upon or not, must be followed out.
4. Porches, terraces, chimney and fireplace extensions and outside stairways -- unroofed, unenclosed, above and below floor -- or steps shall not project more than three (3) feet into any yard. Eaves shall not protrude more than eighteen (18) inches into any minimum required yard.
5. The front yard shall extend across the full width of the front of the lot between street line and main structure, and shall be measured between the street line and (a) the nearest point of the main building, or (b) the nearest point of any enclosed or covered porch, or accessory building, whichever is the lesser distance. Where a lot or tract lacks frontage on a public right-of-way and has frontage only on a private street or easement-of-way, the front yard shall be measured from the margin of such private street or easement-of-way. On corner lots the front yard shall be measured from the street line abutting the narrowest dimension of the lot.
6. The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch.

16.05 USES PROHIBITED:

1. Outhouses for use as privies or lavatory conveniences are prohibited except as an emergency use. The sanitary conveniences must be incorporated within or made a part of the building to which they appertain and must consist of a chemical toilet or installed plumbing properly connected with and trained into a covered septic tank, cesspool or closed sewer.
2. In any "R" zone electric fences or any device designed to give an electric shock to any person coming in contact therewith are prohibited.
3. Houseboats and watercraft used for habitation or commercial amusement shall not be moored or located within any established inner harbor line or between the shore line high water mark and the line of navigability along rivers, streams or bodies of water, and in no case closer than two-hundred and fifty (250) feet to the shore line low water mark.
4. Excavation and removal from the site as distinguished from grading at the site, of black soil, peat, sand, gravel or other natural deposits.
5. An accessory building, unless attached to and made part of the main building, shall not be closer than five (5) feet to the main building.

SECTION 17. PREVIOUS USE AND OCCUPANCY PERMITS.

Where prior to May 25, 1959, special authority was granted for the establishment or conducting of a particular use on a particular site and for a specified period of time or as set forth in an action then titled Use and Occupancy, such previous permits are by this Section declared to be continued as a Conditional Use Permit without specified time limit provided that if the particular use is such as is not otherwise permitted in the zone in which it is located, such established use and improvements incident thereto shall be considered under the terms of this Ordinance as a non-conforming use.

SECTION 18. VARIANCES.

18.01 AUTHORITY TO GRANT VARIANCE:

The City Council, on the recommendation of the Planning Commission, shall have the authority to grant a variance from the provisions of this Ordinance when the conditions set forth in sub-section 18.02 herein have been found to exist.

18.02 REQUIRED SHOWING FOR VARIANCE.

Before any variance may be granted, it shall be shown:

- (a) That there are special circumstances applicable to the particular lot or tract, such as shape, topography, location or surroundings, that do not apply generally to other property in the same vicinity and zone;
- (b) That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by or available to other property in the same vicinity and zone but which because of special circumstances is denied to the particular lot or tract;
- (c) That the granting of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity of the particular lot or tract;
- (d) That the granting of such variance will not adversely affect the comprehensive plan.



SECTION 19. CONDITIONAL USE PERMITS.

19.01 AUTHORITY TO GRANT CONDITIONAL USE PERMIT:

The City Council, on the recommendation of the Planning Commission, shall have the authority to grant a conditional use permit for any use for which this Ordinance requires such permit.

19.02 REQUIRED SHOWING FOR CONDITIONAL USE PERMIT:

Before any conditional use permit may be granted, it shall be shown:

- (a) That such permit is authorized by the restrictions applicable to the zone in which the lot or tract is located for which the permit is sought; and
- (b) That conditions shall be attached to such permit which will assure that such particular use on such particular site will be compatible with other existing and potential uses within the same general area, and shall not constitute a nuisance in fact, recognizing and compensating for variations and degrees of noise, smoke, dust, fumes, vibration, odors, hazard, or public need, together with available technological processes and equipment for control of such factors; and
- (c) That such permit shall be subject to revocation or amendment by the City Council, on recommendation of the Planning Commission.

SECTION 20. NONCONFORMING USES.

20.01 APPLICATION OF THIS SECTION.

This section shall apply to buildings, lands and uses which become nonconforming as a result of the application of this Ordinance to them, or from classification or reclassification of the property under this Ordinance or any subsequent amendments hereto. If a use originally authorized by variance or conditional use permit prior to the effective date of this Ordinance is located within a zone in which such use is not permitted by this Ordinance, such use shall become a nonconforming use.

20.02 UPON REMOVAL OR DESTRUCTION OF NONCONFORMING BUILDINGS FUTURE BUILDINGS AND USES SHALL CONFORM.

If any nonconforming building is destroyed, or is abated, every future use of the land on which the building was located shall conform to this Ordinance.

20.03 RECONSTRUCTION OF BUILDING PARTIALLY DESTROYED OR DAMAGED.

A nonconforming building damaged or partially destroyed to the extent of not more than fifty percent (50%) of its value at the time of the occurrence may be restored and the use of such building or part thereof which existed at the time of the occurrence may be continued, but such restoration shall not extend the abatement date of the original building.

20.04 NONCONFORMING BUILDINGS, STRUCTURAL ALTERATIONS OR ENLARGEMENTS:

1. Unless otherwise specifically provided in this Ordinance, nonconforming buildings may not be enlarged or structurally altered unless an enlargement or structural alteration makes the building more conforming, or is required by law; however, where a building or buildings and customary accessory buildings are nonconforming only by reason of substandard yards or open spaces, structural alterations or enlargements are allowed, if they do not increase the degree of nonconformity of yards or open spaces, and such alterations or enlargements shall observe the yards and open spaces required on the lot.
2. Structural alterations or enlargements are allowed, if necessary to adapt a nonconforming building or buildings to new technologies or equipment pertaining to the uses housed in such building or buildings, but shall not extend the abatement date of the original building.
3. Normal upkeep, repair and maintenance of nonconforming buildings are allowed, but shall not extend the abatement date of the original building.

20.05 CONTINUATION OF NONCONFORMING USE OF A NONCONFORMING BUILDING:

The nonconforming use of a nonconforming building may be continued, and may be expanded or extended throughout such building so long as such nonconforming building remains nonconforming, provided no structural alterations or additions are made except as required by law or as herein specifically allowed. A nonconforming use of a nonconforming building may be changed to another use of the same or more conforming classification, but if the change is to a more conforming use the building cannot thereafter be used by a less restricted use.

20.06 NONCONFORMING USE LIMITS OTHER USES:

While a nonconforming use exists on any lot, no additional use may be established thereon, even though such additional use would be a conforming one, unless an abatement date has been established for the nonconforming use.

20.07 ABATEMENT OF NONCONFORMING USE OF LAND WHERE NO STRUCTURE IS INVOLVED:

In any zone the nonconforming use of land wherein no structure is involved shall be abated within one (1) year from the effective date of this Ordinance, and any future use of such land shall conform to this Ordinance, and during such one-year period the nonconforming use shall not be expanded or extended. If during the one-year period the nonconforming use is discontinued for three (3) months or more, any future use of the land shall conform to this Ordinance.

20.08 ABATEMENT OF ACCESSORY BUILDINGS AND STRUCTURES WHERE NO MAIN BUILDING EXISTS:

Where a nonconforming use has no main building, but has buildings and structures accessory to the main use, then such nonconforming use and such buildings and structures shall be completely removed or altered to conform to uses permitted in the zone in which the property is located, within ten (10) years from the effective date of this Ordinance.

20.09 REMOVAL OF NONCONFORMING STRUCTURES OTHER THAN BUILDINGS:

Any nonconforming structure which is not a building shall be removed within five (5) years from the effective date of this Ordinance.

20.10 NONCONFORMING CHURCHES MAY ALTER OR EXPAND:

Nonconforming churches may be structurally altered or enlarged, provided the requirements of this Ordinance for off-street parking are met and maintained for any seating capacity above that existing on the effective date of this Ordinance.

20.11 ABATEMENT OF NONCONFORMING USE OF CONFORMING BUILDING:

1. "R" zones - Every nonconforming use of a conforming building in an "R" zone shall be discontinued within three (3) years after notice to the owner by the City Council, but not later than five (5) years from the effective date of this Ordinance.
2. "B", "C", or "P" zones - Every nonconforming use of a conforming building in a "B", "C" or "P" zone shall be discontinued within ten (10) years after notice to the owner by the City Council, but not later than twelve (12) years from the effective date of this Ordinance.

20.12 REQUIRED REMOVAL OF NONCONFORMING BUILDINGS:

Every nonconforming building in any "R" zone except residential buildings, churches, schools, and public utility facilities shall be removed or altered to conform to restrictions of the zone in which it is located, within the time periods hereinafter specified, which time periods shall be measured from the date of construction or substantial investment fixed by the City Council as hereinafter provided, but not less than five (5) years after notice to the owner by the City Council.

1. Structure for which building permit is not required - one (1) year.
2. Light combustible frame or wood frame building - twenty (20) years.
3. Heavy timber construction and ordinary masonry building - thirty-five (35) years.
4. Fire resistant building - fifty (50) years.

20.13 ESTABLISHMENT OF ABATEMENT DATE:

When any nonconforming condition exists in any zone, other than the nonconforming use of land where no structure is involved or where the nonconforming structure is not a building or where buildings and structures are accessory to the nonconforming use, the City Council, on recommendation of the Planning Commission, shall fix the date when the nonconforming building was constructed, or the latest date before the effective date of this Ordinance upon which substantial investment was made in the building, consisting of major structural alterations or enlargements or the installation of major equipment, so that all investment in the building before the effective date of this Ordinance may be amortized. The Planning Commission shall make its recommendation only after hearing the owner or lessee of the building, or person chiefly interested therein. When the City Council shall have fixed the date of construction or substantial investment as aforesaid, it shall also fix the abatement date in accordance with this Ordinance and give notice thereof by mail to the owner of the non-conforming property.

SECTION 21. ADMINISTRATION.

- 21.01 The Planning Commission shall entertain in the first instance all petitions, applications or other representations by citizens or owners of property within the city or members of the general public, pertaining to variances, conditional use permits, reclassification of property, amendment of this Ordinance, or any other matter arising under this Ordinance. The Planning Commission shall prescribe the form and scope of applications and data to be submitted to it, and its procedure for hearing and making recommendations on all such matters and for giving reasonable notice of such hearings, so as to assure the fullest practicable presentation of facts for proper consideration of each matter and for a permanent record.
- 21.02 The Planning Commission shall promptly refer to the City Council each recommendation by the Planning Commission that the City Council grant a variance or conditional use permit, or reclassify property covered by the Ordinance, or otherwise amend the Ordinance.
- 21.03 Any person or persons feeling aggrieved by any action of the Planning Commission may within ten days of such action file with the city clerk a written notice of appeal of such action, setting forth the reasons for such appeal.
- 21.04 On receiving such recommendation or such notice of appeal, the City Council shall hear and determine the matter and may affirm, modify or disaffirm the action of the Planning Commission.
- 21.05 Each application for a variance, conditional use permit or reclassification of property shall be accompanied by a fee of fifty dollars (\$50.00). Each notice of appeal to the City Council from action of the Planning Commission shall be accompanied by a fee of twenty-five dollars (\$25.00).

SECTION 22. ENFORCEMENT.

- 22.01 Violation of any of the provisions of this Ordinance shall be a misdemeanor and any person found guilty thereof shall be punished by a fine of not to exceed \$100.00 or by imprisonment for not to exceed 30 days, or both. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Ordinance is committed, continued or permitted.
- 22.02 Any building or structure hereafter set up, erected, built, moved or maintained or any use of property contrary to the provisions of this Ordinance shall be a public nuisance; and the City shall immediately commence action to abate such nuisance, in the superior court or in some other court of competent jurisdiction. If the City shall fail or refuse to bring such action, on demand, then such action may be brought by any person who owns or resides on property within 300 feet of the structure or use complained of, or who owns or resides on property the use and enjoyment of which in its existing state is impaired by the structure or use complained of, or who owns or resides on property the value of which for any purpose is impaired by the structure or use complained of.

SECTION 23. INTERPRETATION, PURPOSE AND CONFLICT.

In their interpretation and application the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public safety, health, morals and general welfare. It is not intended by the Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or land or upon height of buildings or requires larger space than is imposed or required by other resolutions, rules or regulations or by easements, covenants or agreements, the provisions of this Ordinance shall govern.

It is to be noted, however, that where private restrictions are greater than those imposed by this Ordinance, they are not superseded by the provisions of this Ordinance.

SECTION 24. VALIDITY.

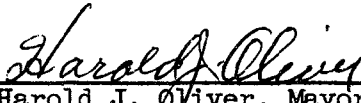
If any section, paragraph, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declares that they would have passed this Ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases be unconstitutional or invalid.

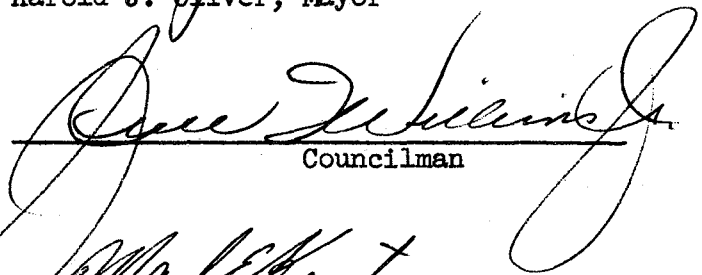


SECTION 25. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its passage, signing and publication.

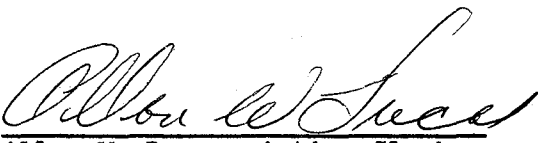
PASSED by the City Council on the 26<sup>th</sup> day of September 1960, and signed in authentication of its passage this 26<sup>th</sup> day of September 1960.

  
\_\_\_\_\_  
Harold J. Oliver, Mayor

  
\_\_\_\_\_  
Councilman

  
\_\_\_\_\_  
Councilman

SEAL

Attest:   
\_\_\_\_\_  
Allan W. Lucas, Acting Clerk

Date of publication: September 28<sup>th</sup>, 1960.

ORDINANCE NO. 15