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Chapter 1.1: Title and Purpose

Sections:

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1.101 Title and Authority

Chapter 1 of the Zoning Code shall be known and cited as the "Batavia Zoning Code" or "Zoning Code."

The authority for the Batavia Zoning Code is Illinois Compiled Statutes (65 ILCS 5/1-1-1 et. seq., as amended), which provides for the regulation of land and land uses by municipalities in Illinois.

1.102 Purposes

The broad purpose of the Zoning Code is to implement the Comprehensive Plan, to promote and protect the public health, safety, comfort, and general welfare of the residents of the City of Batavia. Generally, the Zoning Code is intended to:

A. Direct growth with priority to those areas where infrastructure and urban services can be economically provided.

B. Ensure consistency and conformity among the Comprehensive Plan, zoning districts, and zoning actions.

C. Maintain and enhance the appearance and function of both new and existing development.

D. Promote an efficient use of land resources.

E. Ensure compatibility among land uses.

F. Ensure the provision of adequate open space for light, air, and fire safety.

G. Ensure that service demands of new development will not exceed the capacities of existing or planned streets, utilities, or public services.

H. Conserve the natural environment, protect environmentally sensitive areas, and enhance the quality of the built environment.

I. Promote energy and water conservation through project design.

J. Establish consistent standards regulating the use and physical development of land.

K. Promote a healthy economic and fiscal environment through the establishment of a balance of land uses.

L. Preserve and enhance property values.

1.103 Organization of Zoning Code

A. ***Structure of Zoning Code.*** The Zoning Code consists of the following six divisions, a glossary of general terms, and the Official Zoning Map:

Chapter 1: General Provisions

Chapter 2: Land Use Designations

Chapter 3: Overlay District Regulations

Chapter 4: General Regulations

Chapter 5: Administration

Chapter 6: Glossary

B. ***Graphic Illustrations.*** Illustrations are included for the purposes of example, explanation, and clarification. Where a graphic is in conflict with the text of the Zoning Code, the text shall govern.

1.104 Applicability

All uses and development of land shall comply with the Zoning Code.

A. ***Applicability to Property.*** Zoning regulations shall apply to all land within the City of Batavia, including land owned by the City of Batavia and other local, State, or Federal agencies to the extent allowed by law.

B. ***Applicability to Streets and Rights-of-Way.*** Streets, easements, and rights-of-way shall be in the same zoning district as contiguous property. Where contiguous properties are in different zoning districts, the centerline of the street shall be the district boundary unless otherwise depicted on the Official Zoning Map.

C. ***Compliance with Regulations.*** No land shall be used and no structure shall be constructed, occupied, enlarged, or altered except in compliance with the Zoning Code.

D. ***Substandard Lot.*** As permitted in Section 4.602.D: Non-Conforming or Substandard Lot or Parcel, an existing, legally created lot as of the effective date of the Zoning Code having a width or area less than that required for the base district in which it is located may be occupied by a permitted use or use requiring approval of a Use Permit. However, no substandard lot may be further reduced in area or width.

E. ***Public Nuisance.*** Neither the provisions of the Zoning Code nor the approval of any permit authorized by the Zoning Code shall authorize the maintenance of any public nuisance.

F. ***Conflict with Other Regulations.*** Where there is a conflict between the provisions of the Zoning Code, or between the provisions of the Zoning Code and any other City code, the more restrictive provision shall control unless otherwise set forth in the Zoning Code. The modifications to base district zoning regulations contained in an approved Planned Development Overlay district are not altered by amendments to the Zoning Code.

G. ***Conflict with Recorded Setbacks.*** Where there is a conflict between a required setback of the Zoning Code and a recorded building or building setback line, improvements shall comply with both regulations, effectively rendering the more restrictive provision to control.

H. ***Relation to Prior Zoning Code.*** No provision of the Zoning Code shall validate any use or structure established, constructed, or maintained in violation of any prior zoning code, except as may be specifically authorized by the Zoning Code.

I. ***Extension of Time for Holidays and Weekends.*** If a deadline for an act required by the Zoning Code falls on a weekend or a City holiday, the time for performing such an act shall be extended to the next working day.

1.105 General Rules for Applicability of Land Use and Development Regulations

A. ***Establishment of Base Zoning Districts.*** The City is divided into the following base zoning districts:

Table 1.105: Establishment of Zoning Districts	
Base Districts and Chapter Reference	**District Name**
Chapter 2.1: Single Family Residential Districts	Single Family – (R0) Single Family – Low Density (R1-L) Single Family – Medium Density (R1-M) Single Family – High Density (R1-H)
Chapter 2.2: Multi-Family Residential Districts	Two-Family Residential (R2) Multi-Family – Low Density (R3) Multi-Family – Medium Density (R4) Multi-Family – High Density (R5)
Chapter 2.3: Commercial Districts	Neighborhood Commercial (NC) Community Commercial (CC) General Commercial (GC)
Chapter 2.4: Downtown District	Downtown Mixed Use (DMU)
Chapter 2.5: Mixed Use District	Mixed Use (MU)
Chapter 2.6: Employment District	Office (O) Service Business (SB) Light Industrial (LI) General Industrial (GI)
Chapter 2.7: Public Facility/Institutional District	Public Facility/Institutional (PFI)
Chapter 2.8: Parks and Open Space District	Parks and Open Space (POS)

B. ***Establishment of Overlay Zoning Districts.*** Overlay zoning districts, one or more of which shall overlay a base district, are designated as follows:

Planned Development Overlay Zoning District (PD)
Arterial Street Setback Overlay Zoning District (AS)
Batavia Avenue Setback Overlay Zoning District (BA)
Downtown Building Height Overlay Zoning District (DBH)
South River Street Gateway Overlay Zoning District (SRS)

1.106 Official Zoning Map

A. ***Adoption.*** The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of the Zoning Code.

B. ***District Boundary or Classification Changes.*** If, in accordance with the provisions of the Zoning Code, changes are made in district boundaries, district classifications, or other matter set forth on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

C. ***Maintenance of Official Zoning Map.*** The Official Zoning Map shall be maintained in electronic format by the Information Systems Department, as authorized by the Director of Community Development.

D. ***Copies of the Official Zoning Map.*** Paper copies of the Official Zoning Map shall be certified as true and correct by the Community Development Department. Electronic copies of the Official Zoning Map shall not be certified as true and correct.

1.107 Rules for Construction of Language

In addition to the general provisions of the Zoning Code, the following rules of construction shall apply:

A. The particular controls the general.

B. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

1. "And" indicates that all connected words or provisions shall apply.

2. "And/Or" indicates that the connected words or provisions may apply singly or in any combination.

3. "Either . . . or" indicates that the connected words or provisions shall apply singly but not in combination.

C. References to departments, commissions, boards, or other offices are to those of the City of Batavia unless otherwise indicated.

D. References to a public official in the City are to that person who performs the function referred to and includes a designee of such official.

E. All references to days are to calendar days unless otherwise indicated.

F. All references to measurements are in feet unless otherwise indicated.

G. The words "activities" and "facilities" include any part thereof.

1.108 Rules of Transition

The following rules shall apply to all properties in the City on the effective date of the Zoning Code:

A. ***Violations Continue.*** Any violation of the Zoning Code previously in effect will continue to be a violation under the Zoning Code and shall be subject to penalties and enforcement under Section 5.107: Code Compliance Officer and Section 5.203.C: Fines, unless the use, development, construction or other activity complies with the provisions of the Zoning Code.

B. ***Projects with Approvals or Permits***.

1. *Building Permit Issued Prior to Effective Date of the Zoning Code*. Any building, structure, or sign for which a lawful building permit is issued prior to the effective date of the Zoning Code may be completed in conformance with the permit and other applicable permits and conditions, even if such building, structure or sign does not fully comply with the Zoning Code. If construction is not commenced in compliance with the applicable permit terms, the Building Commissioner may grant an extension pursuant to the provisions of the building code. If the building, structure, or sign is not completed in conformance with the building permit and any extension thereof, then the building, structure, or sign shall be constructed, completed or occupied only in compliance with the Zoning Code.

2. *Building Permit Application Filed Prior to Effective Date of the Zoning Code*. Any building, structure, or sign for which a completed building permit application is filed prior to the effective date of the Zoning Code may be issued a building permit and may be constructed in compliance with the building permit and other applicable approvals, permits and conditions, even if such building, structure or sign does not fully comply with the Zoning Code. If construction is not commenced in compliance with the applicable permit terms, the Building Commissioner may grant an extension pursuant to the provisions of the building code. If the building, structure, or sign is not completed pursuant to the building permit and any extension thereof, then the building, structure, or sign shall be constructed, completed or occupied only in compliance with the Zoning Code.

3. *Design Review Approved Prior to Effective Date of the Zoning Code*. A project which has received Design Review approval prior to the effective date of the Zoning Code may file an application for a building permit in compliance with the Design Review plan and conditions of approval, even if the project does not comply with the provisions of the Zoning Code. Upon approval of the construction plans, a building permit may be issued. The Design Review approval for projects approved prior to the effective date of the Zoning Code shall be valid for 2 years from the date of approval. No time extensions shall be permitted. Projects with valid Design Review approvals may be amended by the Plan Commission following the procedures in Section 5.603: Procedures and Responsibilities.

4. *Preliminary Subdivision Plat Approved Prior to Effective Date of the Zoning Code*. A project which has a preliminary plat approved prior to the effective date of the Zoning Code may file an application for a final subdivision plat and improvement plan approval, even if the subdivision does not fully comply with the provision of the Zoning Code. If a final plat application is not filed within 2 years of the date of preliminary plat

approval, the preliminary plat shall expire. No time extensions shall be permitted. Subsequent preliminary plat applications shall comply with the Zoning Code.

5. *Use Permit Approved Prior to Effective Date of the Zoning Code, No Design Review Required.* A project which has received a use permit prior to the effective date of the Zoning Code may file an application for a building permit, even if the project does not fully comply with the provision of the Zoning Code. If a building permit application is not filed within 2 years of the date of use permit approval, the use permit shall expire. No time extensions shall be permitted.

C. ***Planning Applications Filed Prior to the Effective Date of the Zoning Code.***

1. *Applications for Design Review, Use Permits, and Preliminary Plats Submitted Prior to the Effective Date of the Zoning Code*. Complete applications filed prior to the effective date of the Zoning Code may be approved under the provisions of the prior code. Applicants may elect to develop under the provisions of this Zoning Code, but in that case shall comply with all provisions of this Zoning Code. If a building permit application is not filed within 2 years of the date of approval of the design review, use permit, or preliminary plat, the approval shall expire. No time extensions shall be permitted.

2. *Applications for Rezoning Filed Prior to the Effective Date of the Zoning Code.* Rezoning applications filed prior to the effective date of the Zoning Code shall be governed by the provisions of the prior code unless the applicant elects to comply with the Zoning Code.

D. ***Development of Projects with an Existing Planned Development.*** A lot or parcel with a Planned Development (PD) approval prior to the effective date of the Zoning Code shall be developed in accordance with that approval. The development standards and requirements of the Zoning Code shall apply if not specifically modified by the PD ordinance.

E. ***Planning Applications Filed After the Effective Date of the Zoning Code.*** All applications for rezoning, design review, use permits, and preliminary subdivision plats filed after the effective date of the Zoning Code, including modifications and amendments, shall conform to the provisions of the Zoning Code.

1.109 Rules for Interpretation

A. ***Zoning Land Use Regulations.*** Where uncertainty exists regarding the interpretation of any provision of the Zoning Code or its application to a specific site, the Planning and Zoning Officer shall determine the intent of the provision. The determination of the Officer may be appealed in accordance with the provisions of Section 5.210: Procedures for Appeals.

B. ***Official Zoning Map.*** Where uncertainty exists regarding the boundary of a zoning district, the following rules shall apply:

1. District boundaries shown as approximately following the property line of a lot or parcel shall be construed to follow such property line.

2. Where a district boundary divides a lot or parcel, the location of the district boundary shall be determined by the Planning and Zoning Officer using the scale appearing on the Official Zoning Map.

3. District boundaries shown as approximately following right-of-way lines of freeways, streets, railroads, or other identifiable boundary lines shall be construed to follow such right-of-way or boundary lines.

4. District boundaries shown as lying within right-of-way lines of streets, railroads, or other identifiable boundary lines shall be construed to follow the centerline of such right-of-way or boundary lines.

5. District boundaries shown as lying at the edge of a watercourse shall be construed to follow the centerline of the watercourse.

6. If any uncertainty remains as to the location of a district boundary or other feature shown on the Official Zoning Map, the location shall be determined by the Planning and Zoning Officer.

C. ***Record of Interpretation.*** The Planning and Zoning Officer shall keep a record of interpretations made pursuant to this section. The record of interpretations shall be available to the public.

1.110 Severability

It is hereby declared to be the intention of the City that the provisions of this Title are separable in accordance with the following:

A. If any court of competent jurisdiction shall declare any provision of this Title to be invalid, such ruling shall not affect any other provision of this Title not specifically included in the ruling.

B. If any court of competent jurisdiction shall declare invalid the application of any provision of this Title to a particular property, building or other structure, such ruling shall not affect the application of such provision to any other property, building or structure not specifically included in the ruling.

Chapter 2.1: Single Family Residential Districts

Sections:

2.101 Purposes
2.102 Single Family Residential Districts
2.103 Land Use Regulations
2.104 Lot Development Regulations
2.105 Site Development Regulations, Nonresidential Uses in Residential Districts
2.106 Additional Use and Development Regulations

2.101 Purposes

The purposes of single family residential districts established in this chapter are to:

A. Provide for single family residential uses in appropriate locations.

B. Provide for a variety of single family residential densities.

C. Establish reasonable regulations to create and preserve livable neighborhoods.

D. Provide for appropriate transitions to other residential and nonresidential uses.

E. Accommodate nonresidential uses located in residential districts.

2.102 Single Family Residential Districts

The single family residential districts are:

A. ***R0 (Single Family).*** This district permits single family housing on lots of at least 14,000 net square feet.

B. ***R1-L (Single Family Low Density).*** This district permits single family housing on lots of at least 9,500 net square feet.

C. ***R1-M (Single Family Medium Density).*** This district permits single family housing on lots of at least 7,200 net square feet.

D. ***R1-H (Single Family High Density).*** This district permits single family housing on lots of at least 5,000 net square feet.

2.103 Land Use Regulations

A. ***Regulations.*** Table 2.103: Land Use Regulations – Single Family Residential Districts sets forth the land use regulations for single family residential districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.103: Land Use Regulations – Single Family Residential Districts.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

B. ***Unlisted Uses.*** Uses are defined in Chapter 6: Glossary. If a proposed use is not listed in the Glossary, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.

C. ***Prohibited Uses.*** Uses not listed in Table 2.103: Land Use Regulations – Single Family Residential Districts below or not assigned to a Use Definition pursuant to Section 2.103.B: Unlisted Uses, are prohibited.

D. ***Additional Use and Development Regulations.*** Additional use and development regulations for single family residential districts are set forth in Section 2.106: Additional Use and Development Regulations.

Table 2.103: Land Use Regulations – Single Family Residential Districts

Use Classification	*R0*	*R1-L*	*R1-M*	*R1-H*	*Additional Regulations*
Amateur Radio Facilities	P, L1	P, L1	P, L1	P, L1	
Animal Raising, Non-Commercial	P, L4	--, L4	--, L4	--, L4	Minimum 2-acre lot size
Bed and Breakfast Homes	A, L5	A, L5	A, L5	A, L5	See Section 2.106.N and Title 3-11
Carnival	T	T	T	T	See Title 3-4
Child Day Care, Home Occupation	P	P	P	P	See Section 4.503
Clubs and Lodges	C, L3	C, L3	C, L3	C, L3	
Congregate Living Facility	C	--	--	--	
Crop Raising, Non-Commercial	P	P	P	P	
Day Care Home	P, L2	P, L2	--	--	See Section 4.503
Garage Sales	T	T	T	T	See Section 4.509
Group Home	P	P	P	P	See Section 4:504
Guest Quarters	P, L1	P, L1	P, L1	P, L1	
Haunted House	T	T	T	T	Non-Commercial
Home Occupation	P	P	P	P	See Section 4.502
Homeowner Association Facilities	P	P	P	P	
Model Home	T	T	T	T	See Section 4.511
Over-The-Air Reception Device	P	P	P	P	See Chapter 4.8
Religious Assembly	C, L3	C, L3	C, L3	C, L3	
Residential, Permanent					
Single Family, Detached	P	P	P	P	
Secondary Dwelling Unit	--	--	A, L1	A, L1	
Two-Family Residential	--	C	--	--	
Rooming House	A	A	A	A	
Satellite Dish Antenna, Large	P, L1	P, L1	P, L1	P, L1	
Schools, Public or Private	C, L3	C, L3	C, L3	C, L3	
Senior Housing	P	P	P	P	
Shelter Care Facilities	C	C	--	--	
Stable, Non-Commercial	P	--	--	--	2 acre minimum lot size
Utilities					
Facilities	A	A	A	A	
Well Site	A	A	A	A	

L1: Only as a use incidental to the principal use of the property
L2: Facilities shall be licensed as required by the State of Illinois
L3: Conditional Use; Clubs and Lodges, Community Service Facilities, Public and Private Schools and Religious Assembly Uses are not permitted in single-family residential structures
L4: Honeybees and Chickens shall be regulated by City Code 5-4B and permitted regardless of lot size.
L5: Bed and Breakfast Homes located on properties having more than one dwelling unit are limited solely to 2-unit properties having been granted approval of a Conditional Use Permit Ordinance for a 2-unit residence.

2.104 Lot Development Regulations

Table 2.104: Lot Development Regulations – Single Family Residential Districts sets forth the development regulations for single family uses in single family residential districts, and are in addition to the development regulations set forth in Section 2.106: Additional Use and Development Regulations and Chapter 4.1: Site Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.104: Lot Development Regulations – Single Family Residential Districts.

Table 2.104: Lot Development Regulations – Single Family Residential Districts					
Standards	***R0***	***R1-L***	***R1-M***	***R1-H***	***Additional Regulations***
Minimum Lot Area (sq. ft.)	14,000	9,500	7,200	5,000	
Minimum Lot Width (ft.)	95	80	60	45	
Maximum Height (ft.)					
House	35	35	30	30	
Accessory Structure	25	25	25	25	
Maximum Floor Area Ratio (FAR)	0.35	0.40	0.45	0.50	
Front Setback (ft.)	30	30	25	20	
Rear Setback (ft.)	30	30	30	25	
Interior Side Setback (ft.)	15	12	10	7.5 (L1)	
Corner Side Setback (ft.)	30	30	12	10	
Accessory Structure Setbacks (ft.)					See 2.106.A
Front	30	30	30	30	(A)
Rear	10	6	3	3	(B)
Interior Side	10	6	3	3	(B)
Corner Side	30	30	12	10	(B)
Principal Structure	10	10	10	10	(C)
Maximum Percentage of Building Frontage as Garage with Vehicle Door(s)	50	50	50	50	(D)

(A) Detached garages shall be located at least 6 feet behind the front plane of the principal structure
(B) Rear and interior side setbacks shall be increased by 1 foot for each 1 foot or fraction thereof in excess of 15 feet in height.
(C) Structure may be located closer in compliance with applicable Building and Fire codes
(D) Unroofed porches wider than the enclosed building shall be excluded from the width of the building frontage
(L1) Interior side setbacks on corner lots shall be a minimum of 5 feet

A. ***Number of Buildings on a Zoning Lot.*** No more than one principal detached structure shall be located on a zoning lot.

B. ***Side Clear Area.*** A minimum 5-foot side clear area shall be maintained on both sides of all single family lots. This clear area extends along the entire length of both side elevations to a point 5 feet behind the rear wall plane. This area shall be free of permanent obstructions, including decks, mechanical equipment, ungated walls or fences, accessory structures, *OTARDs*, *Large Satellite Dish Antennas*, *Amateur Radio Facilities* including support structures and cables, swimming pool equipment, and other similar permanent obstructions. The clear area shall extend from the ground to a point 7 feet above ground. The only permanent obstructions permitted are:

1. Architectural building elements extending no more than 6 inches from the wall plane.

2. Gas, electric and other utility meters and equipment.

3. Landscape irrigation valves and control boxes.

4. Window wells, provided that they are at grade and covered with grills, covers, grates or similar devices.

C. ***Front Door Location.*** All residences shall have a front door on a façade facing a street.

2.105 Site Development Regulations, Nonresidential Uses in Residential Districts

Table 2.105: Site Development Regulations – Nonresidential Uses in Residential Districts sets forth the development regulations for nonresidential uses in single family residential districts, and are in addition to the development regulations set forth in Section 2.106: Additional Use and Development Regulations and Chapter 4.1: Site Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.105: Site Development Regulations – Nonresidential Uses in Residential Districts.

Table 2.105: Site Development Regulations – Nonresidential Uses in Residential Districts

Standards	***Use under 5,000 sq. ft.***	***Use 5,000 to 10,000 sq. ft.***	***Use over 10,000 sq. ft.***	***Additional Regulations***
Minimum Lot Area	Same as base district regulations set forth in Table 2.104			
Minimum Lot Dimensions	Same as base district regulations set forth in Table 2.104			
Maximum Building Height (ft.)	30	35	35	
Minimum Building Setbacks (ft.)				
Front	Same as base district regulations set forth in Table 2.104			
Side (Corner)	25	30	30	
Side (Residential)	15	20	25	
Side (Nonresidential)	15	15	15	
Rear (Residential)	30	30	30	
Rear (Nonresidential)	15	15	15	
Separation between Buildings (ft.)				
Single story	10	15	15	
Multiple story	20	20	20	
Maximum Floor Area Ratio (FAR)	Same as base district regulations set forth in Table 2.104			
Minimum Required Perimeter Landscape Area (ft.)				See Chapter 4.3
Front	20	25	30	(A)
Side (Corner)	20	20	25	(A)
Side (Residential)	15	20	25	
Side (Nonresidential)	15	15	15	
Rear (Residential)	20	25	30	
Rear (Nonresidential)	15	15	15	
Landscaping (% of net lot area)	15	15	15	See Chapter 4.3
Building Setback to Parking (ft.)	See Section 4.203.N			
Off-Street Parking and Loading	See Chapter 4.2			
Exterior Lighting Standards, maximum height (ft.)	15	15	15	

(A) ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs and lighting

2.106 Additional Use and Development Regulations

In addition to the requirements set forth in Chapter 4.1: Site Regulations, the following regulations shall apply:

A. ***Accessory Structures.*** Accessory structures shall comply with the following regulations:

1. *Establishment*. An accessory structure shall not be constructed prior to construction of the principal structure.

2. *Location:*

   a. Except as allowed by 2.106.A.2.c below, the structure shall be located in the rear one-half of the lot; however, in no case shall the structure be required to be set back more than 30 feet from the front property line and 6 feet from the front plane of the principal structure.

   b. For single family lots tennis or sport courts shall be set back a minimum of 10 feet from side and rear property lines.

   c. Temporary or Seasonal Sport Courts may be located in the front setback area and shall be set back a minimum of 5 feet from all property lines.

3. *Size.* In addition to the Maximum Floor Area Ratio of the base zoning district, the total square footage of all accessory structures on a lot shall not exceed 10% of the lot size or 600 square feet of building footprint, whichever is greater.

4. *Composition.* No accessory structure shall be made or constructed, in whole or part of new or used shipping or transportation containers.

B. ***Guest Quarters.*** Guest Quarters shall comply with the following regulations:

1. *Establishment*. Guest Quarters shall not be constructed prior to construction of the dwelling unit.

2. *Number*. One Guest Quarters is permitted on a lot or parcel.

3. *Location:* Guest Quarters shall be located within the building envelope.

4. *Additional Standards*:

   a. Guest Quarters may be attached to the principal dwelling by a breezeway or similar structure.

   b. Guest Quarters shall use utility service provided to the principal dwelling.

   c. Ranges, ovens, and built-in cooking facilities are prohibited.

   d. Separate renting or leasing from the principal dwelling is prohibited.

e. The maximum height of Guest Quarters shall be 25 feet.

f. Design of Guest Quarters shall be compatible with the design of the principal dwelling in materials, colors and architectural style.

C. ***Secondary Dwellings.*** Secondary Dwellings may be located on R1-M and R1-H zoned properties and shall comply with the following regulations:

1. *Administrative Use Permit Required.* Secondary Dwellings shall require an Administrative Use Permit.

2. *Notice.* Mailed notice shall be given to adjacent property owners, including properties directly across a street from the property, and owners of properties adjoining front and side property lines to those properties. Notice shall be mailed no later than 15 days before a decision is made on the application.

3. *Establishment*. Secondary Dwellings shall not:

   a. be constructed prior to construction of the principal dwelling unit; or

   b. be located on a lot that contains a nonconforming additional dwelling unit(s).

4. *Number*. Only one Secondary Dwelling unit is permitted on a lot or parcel.

5. *Location.* Secondary Dwellings shall be:

   a. located in the principal structure; or

   b. as part of a detached garage.

6. *Additional Standards*.

   a. Entrances in principal structures shall not be located on walls facing a street.

   b. The Secondary Dwelling shall use utility service provided to the principal dwelling, and shall not be separately metered;

   c. The Secondary Dwelling shall increase the number of required off-street parking spaces specified in Chapter 4.2 Off-Street Parking and Loading Regulations by one space;

   d. The design of the Secondary Dwelling unit shall be compatible with the design of the principal structure in materials, colors and architectural style.

e. The floor area of the Secondary Dwelling shall not exceed 75% of the floor area of the primary dwelling's floor area.

D. ***Access to Nonresidential Property.*** Use of a residential property to provide primary vehicular access to a nonresidential use is prohibited.

E. ***Driveways.*** All driveways shall be a minimum length of 20 feet, except driveways accessing an alley shall be a minimum of 5 feet in length.

F. ***Animals.*** The regulations set forth in 5-4B-1 of the City Code shall govern the keeping of animals within the city limits.

G ***Stables, Non-Commercial.*** Any structure housing animals is an accessory structure subject to the requirements of Section 2.106.A: Accessory Structures, except that such structure shall be set back at least 200 feet from any public street and from any residence except for the residence of the owner of the property.

H. ***Recreational Vehicles on Residential Lots.*** Recreational Vehicles owned by the occupant of a developed Residential lot or parcel may be kept on a residentially zoned property. Recreational Vehicles shall be kept entirely over a hard surface of asphalt, concrete or pavers accessible by a continuous driveway to the curb or edge of street pavement. A Recreational Vehicle cannot be located closer than 5 feet from the rear or interior side property line. Recreational Vehicles shall remain unoccupied while on a Residential lot. Recreational Vehicles shall not extend over a property line, into a right-of-way, or over a sidewalk for public use.

I. ***Utility Trailers on Residential Lots***. Utility Trailers owned by the occupant of a developed Residential lot or parcel may be kept on a residentially zoned property when kept entirely over a hard surface of asphalt, concrete or pavers and not in the front or corner side setback areas. Utility Trailers may be parked on a residentially zoned property entirely over a hard surface in the front or corner side setback area only on a driveway or Additional Parking space (per Section 4.203.W) for a period not to exceed 48 hours when being loaded, unloaded, or serviced.

J. ***Storage, Outdoor.*** Outdoor storage, as defined in Chapter 6 of this code, is prohibited.

K. ***Play Equipment.*** Play Equipment is a permitted structure and not subject to the issuance of a building permit. Play Equipment shall:

1. not be placed in an easement,

2. not be located in a Front or Corner Side Setback area,

3. be located a minimum of five feet from all lot lines.

L. ***Large Refuse Receptacles***. Large refuse receptacles, as defined in this Code, are permitted on a residentially zoned property. Large Refuse Receptacles may be placed:

1. on a driveway or other hard surface for a period not to exceed 14 days.

2. on a driveway or other hard surface for a period greater than 14 days when used in conjunction with an active building permit.

3. on properties containing multi-family residences, other than Two-Family Residences, for a period greater than 14 days solely in accordance with regulations set forth in Section 4.106: Refuse and Recycling Enclosures.

M. ***Bed and Breakfast Homes.***

1. Bed and Breakfast Homes as defined in Chapter 6: Glossary shall be subject to all requirements of City Code Title 3, Chapter 11.

2. Bed and Breakfast Homes shall not be located on properties with a nonconforming number of dwelling units.

3. Bed and Breakfast Homes shall not be located on properties having Guest Quarters.

4. Bed and Breakfast Homes shall not be located on properties having a Secondary Dwelling unless the Secondary Dwelling is occupied solely by the Bed and Breakfast rental party.

5. The Bed and Breakfast Home located in a structure containing two (2) dwelling units may not be owner-occupied provided the same dwelling unit owner occupies the other dwelling unit in the same structure.

6. The Bed and Breakfast Home shall not be located in a structure containing a Group Home, Day Care Home, or Child Day Care Home Occupation.

7. *Administrative Use Permit Required.* Bed and Breakfast Homes shall require an Administrative Use Permit (AUP). A current plat of survey shall accompany the application for AUP. Mailed notice of application for an Administrative Use Permit shall be given to adjacent property owners, including properties directly across a street from the property, and owners of properties adjoining front and side property lines to those properties. Notice shall be mailed no later than 15 days before a decision is made on the application.

8. *Parking Required.* Bed and Breakfast Homes shall provide the following minimum parking improvements on the Zoning Lot:

   a. In addition to the number of spaces required of the residence(s) on the property, one (1) space must be provided for each rented room.

b. Parking shall not extend over a sidewalk.

c. Owners, occupants, and guests of Bed and Breakfast Home properties shall not be granted a City-issued Overnight Parking Permit.

N. ***Rooming House.***

1. Administrative Use Permit Required. Rooming Houses shall require an Administrative Use Permit (AUP). A current plat of survey shall accompany the application for AUP. Mailed notice of application for an Administrative Use Permit shall be given to adjacent property owners, including properties directly across a street from the property, and owners of properties adjoining front and side property lines to those properties. Notice shall be mailed no later than 15 days before a decision is made on the application.

2. Rooming Houses shall not be located on properties with a nonconforming number of dwelling units.

3. Rooming Houses shall not be located on properties having Guest Quarters.

Chapter 2.2 Multi-Family Residential Districts

Sections:

2.201 Purposes
2.202 Land Use Regulations
2.203 Site Development Regulations
2.204 Additional Use and Development Regulations

2.201 Multi-Family Residential Districts

The multi-family residential districts are:

R2 (Two Family Residential). This district permits two family residences, either in a side by side or stacked configuration.

R3 (Multi-Family Low Density). This district permits multi-family housing at densities of approximately 5-8 dwelling units per acre.

R4 (Multi-Family Medium Density). This district permits multi-family housing at densities of approximately 8-15 dwelling units per acre.

R5 (Multi-Family High Density). This district permits multi-family housing at densities of approximately 15-25 dwelling units per acre.

2.202 Land Use Regulations

A. ***Regulations.*** Table 2.202: Land Use Regulations – Multi-Family Residential Districts sets forth the land use regulations for multi-family residential districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.202: Land Use Regulations – Multi-Family Residential Districts.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

B. ***Unlisted Uses.*** Uses are defined in Chapter 6: Glossary. If a proposed use is not listed in the Glossary, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.

C. ***Prohibited Uses.*** Uses not listed in Table 2.202: Land Use Regulations – Multi-Family Residential Districts below, or not assigned to a Use Definition pursuant to Section 2.203B: Unlisted Uses, are prohibited.

D. ***Additional Use and Development Regulations.*** Additional use and development regulations for multi-family residential districts are set forth in Section 2.204: Additional Use and Development Regulations.

Table 2.202: Land Use Regulations – Multi-Family Residential Districts

Use Classification	*R2*	*R3*	*R4*	*R5*	*Additional Regulations*
Amateur Radio Facilities	P, L1	P, L1	--	--	See Chapter 4.8
Bed and Breakfast Homes	A	A	--	--	See Section 2.204 and Title 3-11
Carnival	T	T	T	T	See Title 3-4
Child Day Care, Home Occupation	P, L1	P. L1	P, L1	P, L1	See Section 4.503
Congregate Living Facility	--	--	C	C	
Day Care Home	C	C	--	--	
Garage Sales	T	T	T	T	See Section 4.509
Group Home	P	P	--	--	
Home Occupation	P	P	P	P	See Section 4.502
Homeowner Association Facilities	P	P	P	P	
Laundry Services	--	--	P, L1	P, L1	
Mobile Home Park	--	C	C	--	See Section 2.404.J and Title 3-9
Model Home	T	T	T	T	See Section 4.511
Nursing Home	--	--	C	C	
Over-The-Air Reception Device	P	P	P	P	See Chapter 4.8
Religious Assembly	C, L2	C, L2	C, L2	C, L2	
Residential, Permanent					
Single Family, Detached	P	P	--	--	
Single Family, Attached (Duplex)	P	P	--	--	
Multi-Family	--	P	P	P	
Townhouse	--	P	P	--	
Satellite Dish Antenna, Large	P, L1	P, L1	P, L1	P, L1	See Chapter 4.8
Schools, Public or Private	C, L2	C, L2	C, L2	C, L2	
Senior Housing	P	P	P	P	
Utilities					
Facilities	A	A	A	A	
Well Site	A	A	A	A	

L1: Only as a use incidental to the principal use of the property
L2: Public and Private Schools and Religious Assembly Uses are permitted as separate structures, but not permitted in multi-family residential structures

2.203 Site Development Regulations

Table 2.203: Site Development Regulations – Multi-Family Residential Districts, sets forth the site development regulations for multi-family residential districts, which are in addition to the regulations set forth in Section 2.205: Additional Use and Development Regulations and Chapter 4. Letter designations in the Additional Regulations column refer to regulations that follow Table 2.203: Site Development Regulations.

Table 2.203: Site Development Regulations – Multi-Family Residential Districts

Standards	***R2***	***R3***	***R4***	***R5***	***Additional Regulations***
Minimum Parcel Area (sq. ft.)	10,000	15,000	20,000	87,120	
Minimum Net Land Area per Unit (sq. ft.)	5,000	4,375	2,333	1,750	
Maximum Net Land Area per Unit (sq. ft.)	10,000	7,000	4,375	2,333	
Maximum Height (ft.)	35	35	40	45	
Building Step-back	0	0	0	10' at 3rd floor	
Minimum Perimeter Building Setbacks (ft.)					
Front	25	25	30	40	
Side (Corner)	25	25	30	40	
Side (Single and Two Family Residential)	10	15	30	40	
Side (Multi-Family and Non-residential)	10	15	20	30	
Rear (Single and Two Family Residential)	25	20	30	40	
Rear (Multi-Family and Non-residential)	30	25	20	30	
Minimum Perimeter Accessory Structure Setbacks (ft.)		See Section 2.204.A.1	See Section 2.204.A.1	See Section 2.204.A.1	
Front	25				
Corner Side	25				
Interior Side	5				
Rear	5				
Principal Structure	10				(E)
Minimum Perimeter Landscape Area (depth in ft.)					
Front	20	20	20	20	
Side (Corner)	20	20	20	20	
Side (Single and Two Family Residential)	--	15	15	15	
Side (Multi-Family and Non-residential)	--	15	20	20	
Rear	20 (L1)	20	20	20	
Separation Between Buildings (ft.)					
Single story		15	15	20	
Two story		20	25	25	
Three story		20	25	25	
Building Setback to Parking (ft.)		10	10	10	See Section 4.203.N
Off-Street Parking and Loading					(A)
Private Open Space (sq. ft.)		80	60	60	(B)
Common Open Space (minimum)		50% of net site area	45% of net site area	40% of net site area	(C)
Common Open Space Landscaping		1 tree/unit	1 tree/unit	1 tree/unit	(C)
Landscaping (Perimeter & Public Street Frontages)					(D)
Exterior Lighting Standards (ft.)	15	15	15	20	See Section 4.103

(A) ***Parking for Multi-Family Buildings.*** In the R4 and R5 zoning districts, a minimum of 25 percent of required parking shall be in enclosed buildings.

(B) ***Private Open Space.*** Each unit shall contain an exterior private open space. The minimum dimension of private open space is 6 feet. Private open space shall be covered and screened by a barrier fence or wall a minimum of 4 feet in height. Ground floor private open space may be screened by a fence or wall exceeding 4 feet, but no more than 8 feet in height. Screen walls or fences shall be a minimum 50 percent opacity

(C) ***Common Open Space Amenities.*** Common open space shall contain the following amenities:

1. One enclosed community facility of at least 1,000 square feet for developments of 200 units or more;
2. One children's play area of at least 600 square feet with play equipment, located outside of stormwater management areas for developments of 100 units or more. Age-restricted developments are exempt from this requirement.

(D) ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas and lighting.

(E) Structure may be located closer in compliance with applicable Building and Fire Codes

(L1) Accessory structures may be located in the Perimeter Landscape Area

2.204 Additional Use and Development Regulations

A. ***Accessory Structures.*** Accessory structures shall comply with the following regulations:

1. *Location.*

a. Accessory structures may be located anywhere within the building envelope, and in other areas in the R2 District as specified in Table 2.204.

b. In the R3, R4, and R5 Districts, parking canopies and garages shall be set back a minimum of 10 feet from nonresidential and multi-family residential zoning districts, or properties designated as nonresidential or residential greater than 5 units to the acre in the Comprehensive Plan.

c. In the R3, R4, and R5 Districts, parking canopies and garages shall be set back a minimum of 20 feet from single family residential zoning districts, or properties designated as residential 5 units to the acre or less in the Comprehensive Plan.

2. Maximum Height. The maximum height of accessory structures shall be 15 feet.

B. ***Gated Facility Entrances.*** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.

C. ***Recreational Vehicles on Residential Lots.*** Recreational Vehicles owned by the occupant of a developed R2: Two Family Residential lot or parcel may be kept on the property. Recreational Vehicles shall be kept entirely over a hard surface of asphalt, concrete or pavers accessible by a continuous driveway to the curb or edge of street pavement. A Recreational Vehicle cannot be located closer than 5 feet from the rear or interior side property line. Recreational Vehicles on other Multi-Family Residential Zoning District lots are prohibited on commonly shared parking lots or driveways, unless parked in a location designated for Recreational Vehicles on an approved Design Review Plan. Recreational Vehicles shall not extend over a property line, into a right-of-way, or over a sidewalk for public use. Recreational Vehicles shall remain unoccupied while on a Residential lot.

D. ***Utility Trailers on Residential Lots.*** Utility Trailers owned by the occupant of a developed Residential lot or parcel may be kept on a residentially zoned property when entirely over a hard surface of asphalt, concrete or pavers and not in the front or corner side setback areas. Utility Trailers may be parked on a residentially zoned property entirely over a hard surface in the front or corner side setback area only on a driveway or Additional Parking space (per Section 4.203.W) for a period not to exceed 48 hours when being loaded, unloaded, or serviced.

E. ***Access to Nonresidential Property.*** Use of multi-family zoned property to provide primary vehicular access to a nonresidential use is prohibited.

F. ***Storage, Outdoor.*** Outdoor storage, as defined in Chapter 6 of this code, is prohibited.

G. ***Play Equipment.*** Play Equipment is a permitted structure and not subject to the issuance of a building permit. Play Equipment shall:

1. not be placed in an easement,

2. not be located in a Front or Corner Side Setback area,

3. be located a minimum of five feet from all lot lines.

H. ***Large Refuse Receptacles.*** Large refuse receptacles, as defined in this code, are permitted on a residentially zoned property. Large Refuse Receptacles may be placed:

1. on a driveway or other hard surface for a period not to exceed 14 days.

2. on a driveway or other hard surface for a period greater than 14 days when used in conjunction with an active building permit.

3. on properties containing multi-family residences, other than Two Family Residences, for a period greater than 14 days solely in accordance with regulations set forth in Section 4.106: Refuse and Recycling Enclosures.

I. ***Bed and Breakfast Homes.***

1. Bed and Breakfast Homes as defined in Chapter 6: Glossary shall be subject to all requirements of City Code Title 3, Chapter 11.

2. The Bed and Breakfast Home located in a structure containing two (2) dwelling units may not be owner-occupied provided the same dwelling unit owner occupies the other dwelling unit in the same structure.

3. The Bed and Breakfast Home shall not be located in a structure containing a Group Home.

4. Bed and Breakfast Homes shall not be located on properties having nonconforming Guest Quarters.

5. *Administrative Use Permit Required.* Bed and Breakfast Homes shall require an Administrative Use Permit. Mailed notice of application for an Administrative Use Permit shall be given to adjacent property owners, including properties directly across a street from the property, and owners of properties adjoining front and side property lines to those properties. Notice shall be mailed no later than 15 days before a decision is made on the application.

6. *Parking Required.* Bed and Breakfast Homes shall provide the following minimum parking improvements on the Zoning Lot:

a. In addition to the number of spaces required of the residence(s) on the property, one (1) space must be provided for each rented room.

b. Parking shall not extend over a sidewalk.

c. Owners, occupants, and guests of Bed and Breakfast Home properties shall not be granted a City-issued Overnight Parking Permit.

J. ***Mobile Homes and Mobile Home Parks***

1. Mobile Home Parks as defined in Chapter 6: Glossary shall be subject to all requirements of City Code Title 3, Chapter 9 and this Section. Deviations from these setback requirements are only be permitted with a variance as described in Chapter 5.5 of the Zoning Code.

2. Lot Area.

a. New home sites must be a minimum of 2,500 square feet per trailer coach stand. Sites originally established prior to August 21, 1967, shall have sites with a minimum of 2,100 square feet. No new trailer coach stand sites may be created that are less than 2,500 square feet in area.

b. Existing Mobile Home Park sites may operate as is, but cannot expand without meeting the minimum requirements for a new site.

3. Location.

a. Mobile Home Parks Established prior to August 21, 1967. Mobile Homes in Mobile Home Parks established prior to August 21, 1967 shall be located a minimum of three (3) feet from interior side and rear property lines. Mobile Homes shall be a minimum of five (5) feet from a minor street right-of-way line and fifteen (15) feet from any State or County Highway, or any road designated as a collector or arterial street in the City's Comprehensive Plan. Mobile homes at the intersection of two street rights-of-way or a street right-of-way and a private street, shall not be located within any sight distance triangle as specified in Section 4.111 of the Zoning Code.

b. New or expanded Mobile Home Parks. Mobile Homes in New Mobile Home Parks or expanded Mobile Home Parks shall be located twenty (20) feet from interior side and rear property lines and thirty (30) feet from front or corner side property lines.

c. Mobile Homes shall provide a minimum of ten (10) feet separation from any other Mobile Home. Said setbacks include any attachments such as decks, stairs or carports that are adjacent to or attached to the Mobile Home.

d. Accessory structures such as sheds shall be located in compliance with the perimeter setbacks of the Mobile Home Park, but also shall be setback at least five (5) feet from any Mobile Home. Other than a minimum sized deck and stair for access, Only one (1) accessory structure shall be allowed for each Mobile Home unit.

4. *Parking.* Parking for Mobile Homes shall be provided in accordance with Table 2.404 of the Zoning Code.

5. *Permits Required.* Building Permits are required for all new Mobile Home, accessory structure or site improvements in a Mobile Home Park.

6. *Permitted Accessory Structures.*

a. Accessory structures not listed in this section are prohibited in Mobile Home Parks. The installation of the following accessory structures requires a Building Permit.

(1) Decks and stairs. Required for access to the Mobile Home, but shall comply with all setbacks from property lines as well as from other Mobile Home units and accessory structures specified in Section 2.204.J.3.

(2) Sheds and accessory buildings- Sheds and accessory storage buildings shall meet setback requirements as noted in Section 2.204.J.3.d. No storage shed or building shall exceed 100 square feet in area.

7. *Site Improvements.* The following are additional site improvements that may be made for each home site.

a. Patios and sidewalks. Patios and sidewalks built at grade are permitted and shall meet setback requirements as specified in Section 2.204.J.3 for accessory structures.

b. Driveways- Driveways shall meet maximum width requirements of Chapter 4.2 for driveways at the public or private street line.

Chapter 2.3: Commercial Districts

Sections:

2.301 Purposes
2.302 Commercial Districts
2.303 Land Use Regulations
2.304 Site Development Regulations
2.305 Additional Use and Development Regulations

2.301 Purposes

The purposes of commercial districts established in this Chapter are to:

A. Provide for a range of commercial uses at appropriate scales and locations.

B. Encourage quality and variety in building and landscape design.

C. Ensure land use compatibility with residential and other adjacent uses.

D. Provide for limited mixed commercial and residential uses.

2.302 Commercial Districts

The commercial districts are:

Neighborhood Commercial (NC). This district permits small scale neighborhood retail, office, and service uses under 10,000 square feet per user or stand-alone building.

Community Commercial (CC). This district permits small to medium scale retail, office, service and entertainment uses under 25,000 square feet per user or stand-alone building.

General Commercial (GC). This district permits a broad range of small to large scale retail, service, entertainment, and institutional uses of any size.

2.303 Land Use Regulations

A. ***Regulations.*** Table 2.303: Land Use Regulations – Commercial Districts sets forth the land use regulations for commercial districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.303: Land Use Regulations – Commercial Districts.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

B. ***Unlisted Uses.*** Uses are defined in Chapter 6: Glossary. If a proposed use is not listed in the Glossary, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.

C. ***Prohibited Uses.*** Uses not listed in Table 2.303: Land Use Regulations – Commercial Districts below or not assigned to a Use Definition pursuant to Section 2.303.B: Unlisted Uses are prohibited.

D. ***Additional Use and Development Regulations.*** Additional use and development regulations for commercial districts are set forth in Section 2.305: Additional Use and Development Regulations.

Table 2.303: Land Use Regulations – Commercial Districts

Use Classification	***NC***	***CC***	***GC (L6)***	***Additional Regulations***
Amplified Artistic Performance	--	P, L7	P, L7	
Animal Services				
Animal Grooming	P	P	--	
Animal Training	--	P	--	
Small Animal Clinics	P	P	--	
Automated Teller Machine (ATM)	A	A	A	See Section: 2.305.F
Automated Teller Machine (ATM), Remote	--	A	A	See Section: 2.305.F
Banks and Other Financial Institutions				
Without Drive Through Facilities	P	P	P	
With Drive Through Facilities	--	P	C, L1	
Banquet Facility	C	C	--	
Brewpub	--	P	P	
Building Material and Home Improvement Sales and Service, Retail	--	P	P	
Business Services	P	P	P	
Carnival	T	T	T	See Section: 4.509
Cannabis Business Establishment				See Section 4.515
Cannabis Dispensary, Medical	C	C	C	
Cannabis Dispensary, Recreational	--	--	C	
Child Day Care	P	P	--	
Conference Center	--	C	C	
Cultural Institutions	P	P	--	
Currency Exchange	--	C	C	
Drive-Through	--	C	C	Unless otherwise regulated in this table
Dry Cleaning and Laundry Outlet	P, L2	P, L2	P, L2	
Eating and Drinking Establishments				
Bars/Taverns/Nightclubs/Lounges	C	P	P	
Restaurants, Full Service	P	P	P	

Table 2.303: Land Use Regulations – Commercial Districts				
Use Classification	***NC***	***CC***	***GC (L6)***	***Additional Regulations***
Restaurants, Limited Service	P, L3	P	P	
Entertainment and Recreation, Indoor				
Large-Scale	--	C	C	
Small-Scale	P	P	P	
Entertainment and Recreation, Outdoor	--	C	C	
Farmers' Market	A	A	A	
Firing Range, Indoor	--	--	C	L8
Food Preparation *Small-Scale*	P	P	P	
Fortune Telling Business	C	C	C	
Funeral and Undertaking Services	--	C	--	
Garden Supply Stores and Plant Nurseries	--	P	P	
Government Offices and Facilities	C	C	--	
Haunted House	--	T	T	See Section: 4.509
Health Care Facilities				
Urgent Care Facility	--	P	P	
Medical Offices and Clinics	P	P	--	
Hotels and Commercial Lodging	--	P	P	
Instructional Services, Specialized	P	P	P	
Laboratories, Commercial	P	P	--	
Laundry Services	P	P	--	
Massage Establishment	C	C	C	
Offices, General	P	P	P, L4	
Over-The-Air Reception Device	P	P	P	See Chapter 4.8
Pawn Shops	--	--	P	See Title 3-5-C
Personal Services	P	P	P	
Residential, Permanent				
Loft Unit	P	P	P	
Retail Sales, Convenience	C	P	P	
Retail Sales, Furniture	P	P	P	
Retail Sales, General	P	P	P	
Satellite Dish Antenna, Large	P, L5	P, L5	P, L5	See Chapter 4.8
Seasonal Sales	T	T	T	See Section: 4.509
Smoking Lounge	--	C, L8	--	
Swap Meet, Flea Market and Auction, Indoor	--	P	P	
Swap Meet and Auction, Outdoor	--	T	T	
Tattoo Parlor / Piercing Studio	--	C	--	
Teen Nightclub	--	C	--	
Utilities				
Customer Service Center	--	--	P	
Facilities	--	C	C	
Well Site	P	P	P	
Vehicle and Equipment Sales, Leasing and Services				See Section: 4.512
Car Wash	--	C	C	
Commercial Vehicle/Equipment Sales and Rental; New and Used	--	C	C	
Fueling Facility	C	P	P	
Fueling Facility, Alternative	A	P	P	
Motor Vehicle Sales and Leasing, New and Used	--	C	C	
Non-Commercial Vehicle Rental	--	C	C	
Tent Sale, Vehicle	--	T	T	
Vehicle and Equipment Services, Light	--	P	P	See Section: 4.512
Video Gaming Establishment	C, L9	C, L9	C, L9	See City Code Title 3, Chapter 26
Wireless Communication Facilities	--	C	C	

Table 2.303: Land Use Regulations – Commercial Districts				
Use Classification	***NC***	***CC***	***GC (L6)***	***Additional Regulations***

L1: Financial Service Establishments with drive-through facilities are prohibited within 250 feet of any Kane County or State of Illinois right-of-way, or right-of-way designated as an arterial in the Comprehensive Plan
L2: Drive-through Dry Cleaning and Laundry Outlets are prohibited in GC and require Administrative Design Review in other districts
L3: Drive-through restaurants require a Conditional Use Permit
L4: Offices are permitted above the first floor
L5: Only as a use incidental to the principal use of the property
L6: Non-Retail Sales Tax Producing Business cannot occupy more than 25% of the gross square footage of a multi-tenant building in the GC District. When multi-tenant buildings fall under common ownership within the same commercial center, the gross square footage for all multi-tenant buildings shall apply.
L7: Accessory Use to an Approved Use
L8: Use must be located in a free-standing building without other occupancies
L9: Conditional Use Permit is required for either a principal or accessory/incidental use.

2.304 Site Development Regulations

Table 2.304: Site Development Regulations – Commercial Districts sets forth the site development regulations for commercial districts, which are in addition to the development regulations set forth in Section 2.305: Additional Use and Development Regulations and Chapter 4. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.304: Site Development Regulations – Commercial Districts.

Table 2.304 Site Development Regulations – Commercial Districts				
Standards	***NC***	***CC***	***GC***	***Additional Regulations***
Maximum Size of Use or User (sq. ft.)	10,000	25,000	--	
Maximum Building Height (ft.) / (Stories)	25/1 30/2	35/2	45	
Building Step-back	No	No	Yes	(A)
Minimum Setbacks (ft.)				
Front	20	20	25	(B)
Side (Corner)	15	20	20	
Side (Transitional to Residential)	15	30	75	
Side (Nonresidential)	10	15	20	
Rear (Transitional to Residential)	15	40	75	
Rear (Nonresidential)	15	15	20	
Separation between Buildings (ft.)				
Single story	10	15	15	
Multiple story	--	20	20	
Minimum Required Perimeter Landscape Area (ft.)				
Front	20	20	25	(C)
Side (Corner)	15	20	20	
Side (Residential)	15	25	40	
Side (Nonresidential)	10	15	20	(D)
Rear (Residential)	15	30	40	
Rear (Nonresidential)	15	15	20	(D)
Landscaping (% of net lot area)	15	15	15	See Chapter 4.3
Transitional Setback Landscaping				As Specified by Required Setback, See 4.303.N.4
Exterior Lighting Standards, maximum height (ft.)	15	20	25	See Section 4.211.B.3
Building Setback to Parking (ft.)	7	10	10	See Section 4.203.N

Table 2.304 Site Development Regulations – Commercial Districts				
Standards	***NC***	***CC***	***GC***	***Additional Regulations***
(A) ***Building Step-back.*** Where a building in a GC district is within 50 feet of property designated for residential use in the General Plan, a building step-back of one foot for every one foot of building height above 2 stories or 35 feet is required.				
(B) ***Commercial Uses Adjacent to Residential Districts.*** Commercial activity occurring within 50 feet of property designated for residential use in the Comprehensive Plan shall be conducted within an enclosed building.				
(C) ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas and lighting.				
(D) ***Shared Access Aisles and Shared Parking in Perimeter Landscape Areas.*** Shared access aisles and shared parking accessed from shared aisles may occupy Required Perimeter Landscape Areas on a Side or Rear Setback, when such facilities are located in recorded easements for such purposes.				

2.305 Additional Development Regulations

A. ***Accessory Structures.*** Accessory structures shall be identified on an approved Final Design Review site plan and shall comply with the following regulations:

1. *Establishment*. An accessory structure shall not be constructed prior to construction of a principal structure.

2. *Location*. Accessory structures may be located:

   a. In the building envelope.

   b. In a required side or rear setback, but not within a required landscape area.

3. *Maximum Height.* The maximum height shall be 15 feet.

4. *Separation.* Accessory structures shall be separated from principal structures and other accessory structures by a minimum of 10 feet, measured from the exterior walls.

B. ***Gated Facility Entrances.*** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.

C. ***Drive-Through Facilities.*** Drive-through facilities shall be a minimum of 50 feet from property designated for residential use in the Comprehensive Plan.

D. ***Vehicle and Equipment Sales, Leasing and Services.***

1. *Fuel Canopies.*

    a. The clear height of a canopy over fuel pumps shall be a minimum of 13'-6" and shall not exceed 16'-6". Clearance height shall be measured from finished grade to the bottom of the fuel canopy fascia.

    b. The fuel pump canopy shall be a minimum of 150 feet from property designated for residential use in the Comprehensive Plan.

2. *Service Bays.*

    a. No part of a building within 50 feet of property designated for residential use in the Comprehensive Plan shall contain bay or roll-up doors or similar service openings.

    b. Service bays located within 200 feet of property designated for residential use in the General Plan shall not face the adjacent residential property.

    c. All service activities shall be conducted within the service bays. No used or discarded vehicle parts, equipment, or disabled, junked, or wrecked vehicles may be located outside the service bays.

E. ***Outdoor Dining Areas.*** Uncovered outdoor dining areas are permitted within the required setback areas adjacent to street frontages, no closer than 10 feet from the property line. Permanent installations shall require Administrative Design Review approval.

F. ***Automated Teller Machines***. Exterior Automated Teller Machines shall require an Administrative Use Permit (AUP). The location and security measures shall be approved by the Police Department prior to issuance of the AUP. The AUP shall consider signage, pedestrian accessibility and availability of parking.

G. ***Hours of Operation.*** In the NC District, the hours that a business may be open to the public are limited to between 6:00 a.m. and 11:00 p.m. Increased hours of operation may be permitted with approval of a Conditional Use Permit to insure that there will be no significant adverse impact on nearby uses.

H. ***Outdoor Storage.*** Outdoor storage is prohibited, except for *Building Material and Home Improvement Sales and Service, Retail* uses in an area fully enclosed by a solid fence. No stored material shall exceed the height of the fence. This section does not apply to trash and recycling enclosures.

I. ***Outdoor Retail Sales and Merchandise Display.*** Outdoor retail sales and merchandise displays shall be located and conducted in compliance with the following requirements. Garden Supply Stores and Plant Nurseries and uses that are permitted to be conducted for a temporary period of time as listed in Table 2.303:

Land Use Regulations – Commercial Districts are not outdoor retail sales and merchandise display under this section.

1. *Location*. Outdoor retail sales and merchandise displays shall not obstruct ingress and egress to a building, obstruct fire lanes, interfere with vehicular circulation or sight distance, be located in landscaped areas, or extend into the right-of-way. Outdoor retail sales and merchandise display areas shall be adjacent to the structure containing the business selling the merchandise. Final Design Review plans shall designate permitted areas for outdoor retail sales and merchandise display. For properties developed without design review or with Final Design Review plans approved prior to the effective date of the Zoning Code, the location of outdoor retail sales and merchandise display require Administrative Design Review approval.

2. *Maximum Area*. Other than New and Used Motor Vehicle Sales and Leasing, the maximum area of outdoor retail sales shall be the lesser of 5 percent of the gross floor area of the use or:

   a. *Neighborhood Commercial*: 250 square feet for each use.

   b. *Community Commercial*: 500 square feet for each use.

   c. *General Commercial*: 1,000 square feet for each use.

3. *Height*. Display merchandise shall not exceed a height of 10 feet above finished grade. Construction equipment including fork lifts, boom trucks, cranes, bucket trucks and similar equipment shall be displayed in an un-extended position.

4. *Temporary Use of Parking Area*. The temporary use of a parking area for sales and display is permitted pursuant to Section 4.203.J: Temporary Use of Parking Area.

J. ***Personal Property Storage.***

1. *Indoor*. Indoor Personal Property Storage units shall be used only for the storage of personal property. No residential or commercial use shall be conducted in a storage unit. No hazardous materials shall be stored in a storage unit.

2. *Outdoor*. Outdoor Personal Property Storage shall be used only for the storage of personal property. No residential or commercial use shall be conducted in vehicles, trailers or other personal property stored in an outdoor personal property storage facility.

K. ***Fueling Facility Abandonment.*** All Fueling Facility structures and tanks that are unused and/or vacant for 1 year or more are assumed to be abandoned. Abandoned

structures and facilities, including canopies, shall be removed, and the fuel tanks shall be removed within 90 days from the date a notice of abandonment is mailed to the property owner.

L. ***Fueling Facility Reuse.*** Fueling Facility buildings that are occupied with a use that does not involve the dispensing of fuel shall have all underground fuel tanks removed prior to occupancy of the building. All pumps, pump islands, canopies, fuel dispensing equipment and price signs shall be removed prior to occupancy of the building, or within one year from the effective date of this code.

M. ***Access to Residential Property.*** Use of commercially zoned property to provide primary vehicular access to a residential use is prohibited.

N. ***Limitation on Nonresidential Uses in Neighborhood Commercial District.*** Non-residential uses in the Neighborhood Commercial District are limited to the first floor.

Chapter 2.4: Downtown Mixed Use Zoning District

Sections:

2.401 Purposes
2.402 Applicability
2.403 Land Use Regulations
2.404 Site Development Regulations
2.405 Additional Use and Development Regulations

2.401 Purposes

The purposes of the Downtown Mixed Use Zoning District are to:

A. Implement the policies and goals of the Comprehensive Plan and redevelopment plans of the City.

B. Protect the historic character of the downtown area and promote continuity of that character in new development.

C. Strengthen the pedestrian environment of the downtown area.

D. Create an economically vital and diverse downtown.

E. Expand housing opportunities in the downtown.

F. Establish high quality architecture in new development and redevelopment.

G. Create coherent and consistent street spaces.

H. Insure that downtown off-street parking enhances and complements the historic character of the area.

2.402 Applicability

The provisions of this Chapter shall apply to existing development and new projects located wholly or partially within the Downtown Mixed Use Zoning District.

2.403 Land Use Regulations

A. ***Regulations***. Table 2.403: Land Use Regulations – Downtown Mixed Use District sets forth the land use regulations for the Downtown Mixed Use district. The regulations are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.403: Land Use Regulations – Downtown Mixed Use District.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

B. ***Unlisted Uses.*** Uses are defined in Chapter 6: Glossary. If a proposed use is not listed in the Glossary, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.

C. ***Prohibited Uses.*** Uses not listed in Table 2.403: Land Use Regulations – Downtown Mixed Use District below or not assigned to a Use Definition pursuant to Section 2.403.B: Unlisted Uses, are prohibited.

D. ***Additional Use and Development Regulations.*** Additional use and development regulations for the Downtown Mixed Use District are set forth in Section 2.405: Additional Use and Development Regulations.

Table 2.403 Land Use Regulations – Downtown Mixed Use

Use Classification	DMU	Additional Regulations
Amplified Artistic Performance	P, L8	
Animal Services		
Animal Grooming	P	
Small Animal Clinics	P	
Pet Cafe	C	
Automated Teller Machine (ATM)	P	
Banks and Other Financial Institutions		
Without Drive Through Facilities	P	
With Drive Through Facilities	C	
Banquet Facility	C	
Bed and Breakfast Home	A, L12	See Section 2.405.H and Title 3-11
Brewery or Distillery with Taproom, 5,000 Square Feet or Less	P	
Brewery or Distillery with Taproom, over 5,000 Square Feet	C	
Brewpub	P	
Building Material and Home Improvement Sales and Service, Retail	P, L1	
Business Services	P	
Carnival	T	See Section: 4.509
Child Care Facility	P	
Conference Center	C	

Table 2.403 Land Use Regulations – Downtown Mixed Use		
Use Classification	**DMU**	**Additional Regulations**
Congregate Living Facility	P	
Clubs and Lodges	C, L2	
Cultural Institutions	P	
Dry Cleaning and Laundry Outlet	P	
Eating and Drinking Establishments		
Bars/Taverns/Nightclubs/Lounges	P	
Restaurants, Full Service	P	
Restaurants, Limited Service	P, L4	
Entertainment and Recreation, Indoor		
Small-Scale	P	
Large-Scale	C	
Entertainment and Recreation, Outdoor	C, L5	
Farmers' Market	T	See Section 4.509
Food Preparation		
Small-Scale	P, L7	
Fortune Telling Business	C	
Funeral and Undertaking Services	C	
Garden Supply Stores and Plant Nurseries	P, L7	
Government Offices and Facilities	P	
Group Home	P	
Haunted House	T	See Section 4.509
Health Care Facilities		
Urgent Care Facility	P	
Medical Offices and Clinics	P	
Hospice	P	
Hotels and Commercial Lodging	C	
Instructional Services, Specialized	P	
Laundry Services	P	
Mail Order Catalog or Internet Sales	P, L7	
Maintenance and Repair Services	C	
Manufacturing and Assembly		
Artisan	P, L6	
Massage Establishment	C	
Media Studio	P	
Offices, General	P	
Over-The-Air Reception Device	P	See Section 4.8
Parking Facilities	P	
Personal Services	P	
Public Safety Facilities	P	
Religious Assembly	C, L2	
Residential, Permanent		
Loft Unit	P	
Multi-Family	P	
Retail Sales, Convenience	P	
Retail Sales, Furniture	P	
Retail Sales, General	P	
Satellite Dish Antenna, Large	P, L3	See Chapter 4.8
Seasonal Sales	T	See Section 4.509
Senior Housing	P	
Shelter Care Facility	C	
Shelter Care Facility, Homeless	C	
Smoking Lounge	C, L9	
Swap Meet, Flea Market and Auction, Indoor	C	
Swap Meet and Auction, Outdoor	T	
Tattoo Parlor / Piercing Studio	C	See Title 4-9-1
Teen Nightclub	C	
Utilities		

Table 2.403 Land Use Regulations – Downtown Mixed Use		
Use Classification	**DMU**	**Additional Regulations**
Facilities	A	
Well Site	A	
Vehicle and Equipment Sales, Leasing and Services		
Car Wash	P	See Section 4.512
Fueling Facility	C	
Fueling Facility, Alternative	A	
Motor Vehicle Sales and Leasing, New and Used – Internet Based	C, L11	
Vehicle and Equipment Sales, Leasing and Services		
Non-Commercial Vehicle Rental	C	
Tent Sale, Vehicle	T	See Section 4.509
Vehicle and Equipment Services, Light	C	
Video Gaming Establishment	C, L10	See City Code Title 3, Chapter 26
Wireless Communication Facilities	C	

L1: Permitted less than 5,000 square feet; Conditional Use over 5,000 square feet
L2: Conditional Use. Use is not permitted in existing commercial structures
L3: Only as a use incidental to the principal use of the property
L4: Drive-through restaurants require a Conditional Use Permit
L5: Outdoor motorized recreation facilities are prohibited.
L6: Permitted in conjunction with retail sales of products produced on the premises
L7: Less than 2,500 square feet
L8: Accessory Use to an established use
L9: Use must be located in a free-standing building without other occupancies
L10: Conditional Use Permit is required for either a principal or accessory/incidental use.
L11: Inventory or potential inventory vehicles parked, displayed, stored, or kept on the property is prohibited.
L12: Only in structures that are Single Family, Detached and Single Family Attached (Duplex), as defined in Chapter 6: Glossary.

2.404 Site Development Regulations

Table 2.404: Site Development Regulations –Downtown Mixed Use District sets forth the site development regulations for the Downtown Mixed Use district, which are in addition to the development regulations set forth in Section 2.405: Additional Use and Development Regulations and Chapter 4. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.404: Site Development Regulations – Downtown Mixed Use District.

Table 2.404 Site Development Regulations – Downtown Mixed Use District		
Standards	***DMU***	***Additional Regulations***
Minimum Lot Area	None	
Maximum Building Height (ft.)	50	See Chapter 3.4
Minimum Building Height (ft.)	20	
Maximum Building Setback (ft.)		
Front	10	
Side (Corner)	10	
Minimum Building Setback (ft.)		
Side (Interior)	0	
Rear	0	
Minimum Parking Setback from Streets (ft.)	10	
Separation between Buildings(ft.)	0 / 5	
Building Setback to Parking (ft.)	10	See Section 4.203.N
Exterior Lighting Standards, Maximum Height (ft.)	15	See Chapter 4.211.B.3

2.405 Additional Use and Development Regulations

A. ***Transparency.*** All principal structures, other than religious institutions, adjacent to public streets shall have a minimum percentage of their length comprised of vision glass, from at least 24 inches above grade to 7 feet above grade, including both window and door openings. The following transparency requirements shall apply:

1. *Non-Residential*

    a. First Floor Front Elevation. Front elevations shall have a minimum of 60 percent transparency.

    b. First Floor Street Side Elevations. Street side elevations shall have a minimum of 40 percent transparency.

    c. Elevations Above the First Floor. Street elevations above the first floor shall have a minimum of 25 percent transparency, measured by length.

2. *Residential*

    a. First Floor Front Elevation. Front elevations shall have a minimum of 50 percent transparency.

    b. First Floor Street Side Elevations. Street side elevations shall have a minimum of 25 percent transparency.

    c. Elevations above the First Floor. Street elevations above the first floor shall have a minimum of 40 percent transparency, measured by length.

B. ***Penetrations.*** Principal structures shall have a minimum of one pedestrian entry every 75 feet on elevations facing public streets. Non-residential entries shall be functional and remain unlocked during regular business hours.

C. ***Historic Structures***. Notwithstanding the above provisions, landmarked buildings or buildings classified as Significant or Contributing in the *City of Batavia Historic Preservation Listing* shall continue, and where possible restore, the historic pattern and form of window and door openings.

D. ***Accessory Structures.*** Accessory structures shall comply with the following regulations:

1. *Establishment*. An accessory structure shall not be constructed prior to construction of a principal structure.

2. *Location*. Accessory structures may be located:

a. Within the building envelope.

b. Within a required interior side or rear setback, but not within a required front or street side setback area.

3. *Maximum Height.* The maximum height of accessory structures shall be 15 feet.

4. *Separation.* Accessory structures shall be separated from principal structures and other accessory structures by a minimum of 10 feet, measured from the exterior walls.

E. ***Drive-Through Facilities.*** Drive-through facilities shall be a minimum of 50 feet from property designated for residential use in the Comprehensive Plan.

F. ***Outdoor Storage.*** Outdoor storage is prohibited.

G. ***Outdoor Dining Areas***. Uncovered outdoor dining areas are permitted in building setback areas. Permanent installations shall require Administrative Design Review approval. Adjacent public property may be used for outdoor dining after the business owner seeking to use the adjacent public property enters into a license agreement with the City for that purpose.

H. Bed and Breakfast Homes.

1. Bed and Breakfast Homes as defined in Chapter 6: Glossary shall be subject to all requirements of City Code Title 3, Chapter 11.

2. The Bed and Breakfast Home located in a structure containing two (2) dwelling units may not be owner-occupied provided the same dwelling unit owner occupies the other dwelling unit in the same structure.

3. The Bed and Breakfast Home shall not be located in a structure containing a *Group Home*.

4. Bed and Breakfast Homes shall not be located on properties having nonconforming *Guest Quarters*.

5. *Administrative Use Permit Required.* Bed and Breakfast Homes shall require an Administrative Use Permit. Mailed notice of application for an Administrative Use Permit shall be given to adjacent property owners, including properties directly across a street from the property, and owners of properties adjoining front and side property lines to those properties. Notice shall be mailed no later than 15 days before a decision is made on the application.

6. *Parking Required.* Bed and Breakfast Homes shall provide the following minimum parking improvements on the *Zoning Lot*:

    a. In addition to the number of spaces required of the residence(s) on the property, one (1) space must be provided for each rented room.

    b. Parking shall not extend over a sidewalk.

    c. Owners, occupants, and guests of Bed and Breakfast Home properties shall not be granted a City-issued Overnight Parking Permit.

Chapter 2.5: Mixed Use Zoning District

Sections:

2.501 Purposes
2.502 Applicability
2.503 Land Use Regulations
2.504 Site Development Regulations
2.505 Additional Use and Development Regulations

2.501 Purposes

The purposes of the Mixed Use Zoning District are to:

A. Implement the policies and goals of the Comprehensive Plan and redevelopment plans of the City.

B. Create complete neighborhoods with a range of uses and activities.

C. Integrate new development into existing neighborhoods.

D. Establish high quality design in new development and redevelopment.

E. Create inviting, coherent and consistent street spaces.

2.502 Applicability

The provisions of this chapter shall apply to existing development and new projects located within areas designated for mixed use in the Comprehensive Plan and zoned as Mixed Use.

2.503 Land Use Regulations

A. ***Regulations.*** Table 2.503: Land Use Regulations – Mixed Use District sets forth the land use regulations for the Mixed Use district. The regulations are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.503: Land Use Regulations – Mixed Use District.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

B. ***Unlisted Uses.*** Uses are defined in Chapter 6: Glossary. If a proposed use is not listed in the Glossary, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.

C. ***Prohibited Uses.*** Uses not listed in Table 2.504: Land Use Regulations – Mixed Use District below or not assigned to a Use Definition pursuant to Section 2.503B: Unlisted Uses, are prohibited.

D. ***Additional Use and Development Regulations.*** Additional use and development regulations for the Mixed Use District are set forth in Section 2.505: Additional Use and Development Regulations.

Table 2.503 Land Use Regulations – Mixed Use

Use Classification	MU	Additional Regulations
Amplified Artistic Performance	P, L6	
Animal Service		
Animal Grooming	P	
Small Animal Clinics	P	
Automated Teller Machine (ATM)	P	
Banks and Other Financial Institutions		
Without Drive Through Facilities	P	
With Drive Through Facilities	--	
Banquet Facility	C	
Brewery or Distillery	C	
Brewpub	P	
Business Services	P	
Carnival	T	See Section 4.509
Child Care Facility	P	
Clubs and Lodges	C, L1	
Colleges, Public or Private	C	
Congregate Living Facility	P	
Cultural Institutions	P	
Dry Cleaning and Laundry Outlet	P	
Eating and Drinking Establishments		
Bars/Taverns/Nightclubs/Lounges	P	
Restaurants, Full Service	P	
Restaurants, Limited Service	P, L2	
Entertainment and Recreation, Indoor		
Small-Scale	P	
Large-Scale	C	
Farmers' Market	T	See Section 4.509
Food Preparation		

Table 2.503 Land Use Regulations – Mixed Use		
Use Classification	**MU**	**Additional Regulations**
Small Scale	P, L4	
Fortune Telling Business	C	
Government Offices and Facilities	P	
Haunted House	T	See Section 4.509
Health Care Facilities		
Urgent Care Facility	P	
Medical Offices and Facilities	P	
Hospice	P	
Hotels and Commercial Lodging	C	
Instructional Services, Specialized	P	
Laboratories, Commercial	P	
Laundry Services	P	
Mail Order, Catalog or Internet Sales	P, L4	
Maintenance and Repair Services	C	
Manufacturing and Assembly		
Artisan	P, L5	
Massage Establishment	C	
Media Studio	P	
Offices, General	P	
Over-The-Air-Reception Device	P	See Chapter 4.8
Personal Property Storage, Indoor	C	See Section 2.505.I
Personal Services	P	
Public Safety Facilities	P	
Religious Assembly	C, L1	
Residential Permanent		
Loft Unit	P	
Multi-Family	P	
Retail Sales, Convenience	C	
Retail Sales, Furniture	P	
Retail Sales, General	P	
Satellite Dish Antenna, Large	P, L3	See Chapter 4.8
Schools, Public or Private	P	
Seasonal Sales	T	See Section 4.509
Senior Housing	P	
Shelter Care Facility	C	
Smoking Lounge	C, L7	
Swap Meet, Flea Market and Auction, Indoor	C	
Swap Meet, Flea Market and Auction, Outdoor	T	
Tattoo Parlor / Piercing Studio	P	
Teen Nightclub	C	
Utilities		
Customer Service Center	P	
Facilities	P	
Well Sites	P	
Vehicle and Equipment Sales, Leasing and Services		See Section 4.512
Fueling Facility, Alternative	A	
Motor Vehicle Sales and Leasing, New and Used	C	See Section 2.505.J

Table 2.503 Land Use Regulations – Mixed Use		
Use Classification	**MU**	**Additional Regulations**
Video Gaming Establishment	C, L7	See City Code Title 3, Chapter 26
Wireless Communication Facility	C	

L1: Use is not permitted in existing commercial structures
L2: Drive-through restaurants are not permitted
L3: Only as a use incidental to the principal use of the property
L4: Less than 2,500 square feet
L5: Permitted in conjunction with retail sales of products produced on the premises
L6: Accessory Use to an established use
L7: Conditional Use Permit is required for either a principal or accessory/incidental use.

2.504 Site Development Regulations

Table 2.504: Site Development Regulations – Mixed Use District sets forth the site development regulations for the Mixed Use District, which are in addition to the development regulations set forth in Section 2.505: Additional Use and Development Regulations and Chapter 4. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.504: Site Development Regulations – Mixed Use District.

Table 2.504 Site Development Regulations –Mixed Use District		
Standards	***MU***	***Additional Regulations***
Minimum Lot Area	1 acre	
Maximum Building Height (ft.)/(stories)	50/4	
Minimum Building Height (ft.)	20	
Building Step-back	Yes	(A)
Minimum Building Height (stories)	2	Does not apply to accessory structures
Maximum Building Setback (ft.)		
Front	10	
Side (Corner)	10	
Minimum Building Setback (ft.)		
Side (Interior)	0	
Rear (Nonresidential)	0	
Rear (Residential)	10	(B)
Minimum Parking Setback from Streets (ft.)	10	
Separation between Buildings (ft.)	0	If provided, minimum 10 ft.
Building Setback to Parking (ft.)	10	See Section 4.203.N
Exterior Lighting Standards, Maximum height (ft.)	15	See 4.2011.B.3

(A) ***Building Step-back.*** A building step-back of ten feet for those portions of the building above 3 stories or 35 feet is required.
(B) ***Rear (Residential).*** Applies to adjacent properties that have a residential use.

2.505 Additional Use and Development Regulations

A. ***Use Mix.*** Each project shall have a minimum of 25 percent of the first floor square footage adjacent to a public street in retail, entertainment or eating and drinking use. A minimum of 10 percent of the total square footage of each project shall be nonresidential use.

B. ***Transparency.*** All structures adjacent to public streets shall have a minimum percentage of their length comprised of vision glass, including both window and door openings. The following transparency requirements shall apply:

1. *First Floor Front Elevation.* Front elevations shall have a minimum transparency of:

    a. Residential. 30 percent.

    b. Non-residential. 50 percent. The glass area shall remain 75% unobstructed from at least 24 inches above grade to 7 feet above grade, by signs, paper, blinds or other opaque window covering, except for temporary sun protection.

2. *First Floor Corner Side Elevations.* Corner side elevations shall have a minimum of 30 percent of their length comprised of vision glass.

3. *Elevations above the First Floor*. Street elevations above the first floor shall have a minimum of 30 percent of their length comprised of vision glass.

4. *Historic Structures*. Notwithstanding the above provisions, landmarked buildings or buildings classified as Significant or Contributing in the *City of Batavia Historic Preservation Listing* shall continue their historic pattern and form of window and door openings.

C. ***Entrances.*** Buildings shall have a minimum of one pedestrian entrance every 50 feet on elevations facing public streets. Entrances shall be functional and business entrances shall remain unlocked during regular business hours.

D. ***Accessory Structures.*** Accessory structures shall comply with the following regulations:

1. *Establishment.* An accessory structure shall not be constructed prior to construction of a principal structure.

2. *Location*. Accessory structures may be located:

    a. Within the building envelope.

    b. Within a required interior side or rear setback, but not within a required front or street side setback area.

3. *Maximum Height.* The maximum height shall be 15 feet.

4. *Separation.* Accessory structures shall be separated from principal structures and other accessory structures by a minimum of 10 feet, measured from the exterior walls.

E. ***Parking.*** Other than in a parking structure, the maximum number of parking spaces in a parking field shall be 20. Parking fields shall be separated by a building, street, or landscape area a minimum of 20 feet in width.

F. ***Open Space.*** Any new project, other than reuse of an existing structure, shall provide a minimum of 10 percent of net lot area in open space.

G. ***Block Length.*** The maximum length of any block shall be 600 feet.

H. ***Outdoor Dining Areas***. Uncovered outdoor dining areas are permitted within the required setback areas adjacent to street frontages, no closer than 10 feet from the property line. Permanent installations shall require Administrative Design Review approval.

I. ***Personal Property Storage, Indoor.*** Indoor Personal Property Storage units shall be used only for the storage of personal property. No residential or commercial use shall be conducted in a storage unit. No hazardous materials shall be stored in a storage unit.

1. Additional Regulations for Personal Property Storage, Indoor Uses. Personal Property Storage, Indoor Uses shall also comply with the following standards:

   a. Indoor Personal Property Storage is only allowed in buildings that are 100,000 square feet or larger;

   b. Indoor Personal Property Storage must be fully enclosed and climate controlled.

   c. Indoor Personal Property Storage may make up no more than 75% of the total floor plate of a building and the remaining percentage of gross floor plate must be occupied by one or more of the following uses:

      (1) Entertainment and Recreation uses that contain an accessory retail use and/or an eating and drinking establishment use;

      (2) Eating and Drinking Establishments, which may include sales of alcohol for on premise consumption; and/or

(3) Retail Sales uses.

(4) Car/Auto Dealership

d. Indoor Personal Property Storage shall not include outdoor storage of any kind; and

e. Indoor Personal Property Storage Structure-must be located at least 650 feet from the right-of-way of an arterial street.

J. ***Vehicle and Equipment Sales, Leasing and Services.*** *Motor Vehicle Sales and Leasing, New and Used.* Occupants shall have the right to use the Premises at Occupants sole discretion for the sale, service, maintenance, test driving, charging, repair, delivery, and interior and exterior storage of new and pre-owned automobiles and energy products and related parts and accessories, and for general office purposes related to those retail activities. Body repair and paint work shall be limited to accessory operations conducted by Dealership Technicians or their subcontractors or affiliates.

Chapter 2.6: Employment Districts

Sections:

2.601 Purpose
2.602 Employment Districts
2.603 Land Use Regulations
2.604 Site Development Regulations
2.605 Additional Use and Development Regulations

2.601 Purposes

The purposes of employment districts established in this Chapter are to:

A. Provide for a range of employment uses at appropriate intensities and locations.

B. Protect areas for employment uses from incompatible uses.

C. Protect adjacent uses from potential adverse impacts of employment uses by setting forth standards for compatibility.

D. Provide for professional and general office uses at appropriate scales and locations.

E. Establish a district for uses that combine service, retail and light industrial activities.

F. Ensure land use compatibility with residential and other adjacent uses.

G. Encourage quality and variety in building and landscape design.

H. Improve the appearance of properties from public rights of way.

2.602 Employment Districts

The employment districts are:

Office (O). This district permits small to medium scale, single- or multi-story medical, professional, and service-type office uses.

Service Business (SB). This district permits a combination of light industrial, service and retail uses, often in structures built for light industrial activity. Manufacturing, contractors' yards and uses requiring frequent visits by heavy trucks are not permitted.

Light Industrial (LI). This district permits employment uses of moderate intensity such as assembly, light manufacturing, processing, vehicle and

equipment service, research and development, general offices, storage and distribution.

General Industrial (GI). This district permits more intense employment uses that may not occur in buildings and that require access for heavy trucks, such as manufacturing, food and materials processing and packaging, warehousing and storage, waste management, motor vehicle and heavy equipment storage and repair, utilities and freight/truck terminals.

2.603 Land Use Regulations

A. ***Regulations.*** Table 2.603: Land Use Regulations – Employment Districts sets forth the land use regulations for employment districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.603: Land Use Regulations – Employment Districts.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

B. ***Unlisted Uses.*** Uses are defined in Chapter 6: Glossary. If a proposed use is not listed in the Glossary, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.

C. ***Prohibited Uses.*** Uses not listed in Table 2.603: Land Use Regulations – Employment Districts below, or not assigned to a Use Definition pursuant to Section 2.603.B: Unlisted Uses, are prohibited.

D. ***Additional Development Regulations.*** Additional use and development regulations for employment districts are set forth in Section 2.605: Additional Use and Development Regulations.

Table 2.603 Land Use Regulations – Employment Districts					
Use Classification	**O**	**SB**	**LI**	**GI**	**Additional Regulations**
Adult Arcade	--	--	P	P	See Title 3-17
Adult Bookstore, Adult Novelty Store, or Adult Video Store	--	--	P	P	See Title 3-17
Adult Motion Picture Theater	--	--	P	P	See Title 3-17
Adult Show or Adult Theater	--	--	P	P	See Title 3-17
Amateur Radio Facilities	P, L1	P, L1	P, L1	--	See Chapter 4.8
Ambulance Services					
3,500 Square Feet or Less	--	--	P	P	
Greater than 3,500 Square Feet	--	--	C	C	
Animal Services					See Section 4.507
Animal Shelter	--	C	C	--	
Animal Training	--	P	P	--	
Kennel	--	P	P	--	
Automated Teller Machine (ATM)	P	P	P	P	
Automated Teller Machine (ATM), Remote	A	--	A	--	
Banks and Other Financial Services Institutions	P	--	--	--	
Banquet Facility	C	--	--	--	
Brewery or Distillery	--	--	P	P	
Brewpub	--	--	P,L6	P,L6	
Building Maintenance Services	--	P	P	P	
Building Material and Home Improvement Sales and Service, Wholesale	--	--	P	P	
Business Services	P	P	P	--	
Call Center	C	--	P	P	
Cannabis Business Establishments					See Section 4.515
Cannabis Craft Grower	--	--	--	C	
Cannabis Cultivation Center	--	--	--	C	
Cannabis Dispensary, Medical	--	--	C	C	
Cannabis Dispensary, Recreational	--	--	C	C	
Cannabis Infuser Organization (Infuser)	--	--	--	C	
Cannabis Processing Organization (Processor)	--	--	--	C	
Cannabis Transportation Organization	--	--	--	C	
Child Day Care	P	C	C	--	
Colleges, Public or Private	P	--	P	--	
Contractor's Yard	--	--	P, L4	P, L4	
Crematorium	--	--	P	P	
Dry Cleaning and Laundry Central Plant	--	--	P	P	
Eating and Drinking Establishments					
Restaurants, Full Service	--	--	P	--	
Restaurants, Limited Service	P, L2	P	P, L2	P, L2	
Entertainment and Recreation, Indoor					See 2.605.H
Large-Scale	--	C	C	C	
Small-Scale	--	P	P	C	
Entertainment and Recreation, Outdoor					
Large-Scale	--	C	--	--	
Small-Scale	--	C	--	--	
Firing Range, Indoor	--	--	C	C	
Food Preparation					
Large-Scale	--	--	P	P	
Small-Scale	--	P	P	--	
Funeral and Undertaking Services	C	--	--	--	
Haunted House	--	T	T	--	
Health Care Facilities					
Hospital	C	--	--	--	
Medical Offices and Clinics	P	P	--	--	
Urgent Care Facility	P	--	--	--	

Table 2.603 Land Use Regulations – Employment Districts					
Use Classification	**O**	**SB**	**LI**	**GI**	**Additional Regulations**
Heliport/Helipad	--	--	C	C	
Hotels and Commercial Lodging	P	C	--	--	
Incidental Display	--	P	P	--	See Section 4.104
Instructional Services, Specialized	P	P	P	--	
Laboratories, Commercial	P	P	--	--	
Laboratories, Industrial	--	--	P	P	
Mail Order, Catalog or Internet Sales	--	P	P	P	
Maintenance and Repair Services	--	P	P	--	
Manufacturing and Assembly					
Artisan	--	P	P	--	
Light	--	--	P	P	
General	--	--	P	P	
Heavy	--	--	--	P	
Mining and Quarrying	--	--	--	C	
Offices, General	P	P	P, L1	P,L1	
Outdoor Driving Range	--	--	C	C	
Over-The-Air Reception Device	P, L1	P, L1	P, L1	P, L1	See Chapter 4.8
Public Safety Facilities	P	P	P	P	
Research and Development	--	P	P	P	
Residential, Permanent					
Loft Unit	P	--	--	--	
Retail Sales, General	--	P, L3	P, L3	P, L3	
Salvage Yards or Junkyards	--	--	--	C	
Satellite Dish Antenna, Large	P, L1	P, L1	P, L1	P, L1	See Chapter 4.8
Storage, Business Property	--	--	P, L4	P, L4	
Storage, Personal Property					
Indoor	--	P	P	--	
Outdoor	--	C	C	C	
Swap Meet, Flea Market and Auction					See Section 4.509
Indoor	--	P	P	--	
Outdoor	--	--	T	--	
Truck and Semi-trailer Storage Lots	--	--	C	C	See Section 4.517
Utilities					
Facilities	A	A	A	A	
Service Yard	--	--	A	A	
Well Site	A	A	A	A	
Vehicle Equipment Sales, Leasing and Services					See Section 4.512
Commercial Vehicle/Equipment Sales and Rental, New and Used	--	--	C	C	
Fueling Facility, Alternative	P	P	P	P	
Fueling Facility, Fleet	--	--	P	P	
Motor Vehicle Sales and Leasing, New & Used – Internet Based	--	--	C,L5	C	
Motor Vehicle Sales and Leasing, New & Used	--	--	C,L5	C	
Non-Commercial Vehicle Rental	--	P, L5	P	--	
Towing Service Establishment	--	C	C, L8	C, L8	
Vehicle Services, Heavy	--	C	P	P	
Vehicle Services, Light	--	C	P	--	
Video Gaming Establishment	C, L7	C, L7	C, L7	C, L7	See City Code Title 3, Chapter 26
Warehousing					
Distribution Warehouse	--	--	P	P	
Petroleum and Gas Storage	--	--	P	P	
Information	C	--	P	P	
Waste Management					
Hazardous Waste Collection and Transfer Facility	--	--	--	C	

Table 2.603 Land Use Regulations – Employment Districts					
Use Classification	**O**	**SB**	**LI**	**GI**	**Additional Regulations**
Hazardous Waste Disposal Facility	--	--	--	C	
Non-Hazardous Waste Collection and Transfer Facility	--	--	--	P	
Non-Hazardous Waste Disposal Facility	--	--	--	C	
Non-Hazardous Material Recycling Collection Facility	--	--	--	C	
Wireless Communication Facilities	--	--	A	A	

Limitations

L1: Only as a use incidental to the principal use of the property.
L2: Drive-through facilities prohibited.
L3: Only as a use incidental to the principal use of the property. Retail uses shall not exceed 1000 sq. ft. Gross Floor Area (GFA).
L4: Permitted on properties with a principal structure. A Conditional Use for properties without a principal structure.
L5: Only as an incidental use to Vehicle Services, Light and Vehicle Services, Heavy. Motor Vehicle Sales and Leasing shall be conducted indoors and limited to 10 percent of the GFA of the principal use.
L6: Permitted as an Accessory Use to a Brewery Use
L7: Conditional Use Permit is required for either a principal or accessory/incidental use.
L8: Allowed on properties with a principal structure. Unlicensed, damaged, or inoperable vehicles shall be kept in a solid fence enclosed area.

2.604 Site Development Regulations

Table 2.604: Site Development Regulations – Employment Districts sets forth the site development regulations for employment districts, which are in addition to the development regulations set forth in Section 2.605: Additional Use and Development Regulations and Chapter 4. Letter designations in the Additional Regulations column refer to regulations that follow Table 2.604: Site Development Regulations – Employment Districts.

Table 2.604: Site Development Regulations – Employment Districts					
Standards	**O**	**SB**	**LI**	**GI**	**Additional Regulations**
Maximum Principal Building Height (ft.)	35	35	45	75	(A, B, C)
Maximum Accessory Building Height (ft.)	20	20	20	20	
Minimum Principal Building Setback (ft.)					
Front	25	25	30	20	
Side (Corner)	20	20	30	20	
Side (Transitional to Residential)	25	25	30	30	(D)
Side (Commercial/Office/Public Facility/Institutional)	10	10	20	20	
Side (Employment)	10	10	0/10	0/10	
Rear (Transitional to Residential)	20	20	45	45	(D)
Rear (Non-residential)	15	20	30	0/15	
Separation between Buildings (ft.)					
Single story	15	15	15	15	
Multiple story	20	20	20	20	
Accessory Building Setbacks	--	--			(E)
Minimum Required Perimeter Landscape Area (ft.)					
Front (Arterial street)	25	25	25	20	(F,G)
Front (Collector or local street)	20	20	10	10	(F,G)

Table 2.604: Site Development Regulations – Employment Districts					
Standards	**O**	**SB**	**LI**	**GI**	**Additional Regulations**
Side (Arterial)	20	20	30	30	(F,G)
Side (Collector or local)	20	20	20	20	(F,G)
Side (Residential)	20	20	25	20	
Side (Commercial/Office/Public Facility/Institutional)	10	10	15	20	
Side (Employment)	10	10	0	0	
Rear (Residential)	20	20	30	30	
Rear (Commercial/Office/ Public Facility/Institutional)	15	15	0/15	0/15	(H)
Rear (Employment)	10	10	10	0/10	(H)
Landscaping (% of net lot area)	15	10	10	5	See Chapter 4.3
Additional Landscaping					(I)
Transitional Setback Landscaping					As Specified by Required Setback, See 4.303.N.4
Building Setback to Parking (ft.)					See Section 4.203.N
Off-Street Parking and Loading					See Chapter 4.2
Exterior Parking Light Standards, maximum height (ft.)	15	15	20	25	See Section 4.103
Exterior Storage Area Light Standards, maximum height (ft)	--	20	25	30	See Section 4.103

A. ***Principal Building Height Increase.*** Principal Building height above that permitted in the O District may be granted through the issuance of a Conditional Use Permit pursuant to Chapter 5.4: Use Permits. This provision does not apply to Wireless Communication Facilities.

B. ***Height Limitation Near Residential Properties.*** Principal Building height in the LI District is limited to 35 feet for portions of the building within 100 feet of a property designated for residential use in the Comprehensive Plan.

C. ***Principal Building Step-Back for Offices.*** Office buildings shall be set back above the second floor by 1 foot for every 1 foot that the building exceeds 35 feet in height, up to a maximum of 10 feet.

D. ***Employment Uses Adjacent to Residential Districts.***

1. Employment activity occurring within 50 feet of property designated for residential use in the Comprehensive Plan shall be conducted within an enclosed building. No part of the building within 50 feet of the residentially classified property shall contain bay or roll-up doors or similar service openings.
2. Office uses are limited to 25 feet in height for portions of the building within 50 feet of the property line adjacent to property designated for residential use in the Comprehensive Plan.

E. Accessory Buildings shall not be located in a required Principal Building Setback and not between the Principal Building and the Street, except in the LI and GI Districts the building may be located in the required Rear Setback when not adjacent to a property with residential zoning or land use designations, and not in the Minimum Required Perimeter Landscaped Area, but in no case closer than 10 feet to the property line.

F. ***Outdoor Storage Adjacent to Streets.*** In the GI District all storage within 100 feet of a street shall be within an enclosed building or screened by a solid fence 8 feet in height.

G. ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas and lighting.

H. ***Zero Lot Line Landscape Requirements.*** Where a portion of a building is constructed on the property line, landscaping is required adjacent to that portion of the side or rear property line not occupied by the building.

I. ***Additional Landscaping.*** Where a portion of a property in the LI and GI is visible from a residentially zoned property, the Plan Commission, through Design Review, may require additional landscaping to reduce visibility from the residential property.

2.605 Additional Use and Development Regulations

A. ***Retail Sales.*** The area occupied by retail sales of products manufactured, assembled, processed, or distributed on the site shall not exceed 10 percent of the gross floor area of the use in the LI and GI districts. Other than retail sales permitted in Section 2.603: Land Use Regulations, the retail sale of products not manufactured, assembled, processed, or distributed on the site is prohibited.

B. ***Outdoor Storage and Contractors' Yards.*** In addition to the requirements set forth in Section 4.104: Outdoor Business Property Storage, outdoor storage areas and Contractors' Yards shall comply with the following requirements. This section does not apply to Outdoor Personal Property Storage.

1. Light Industrial District.

    a. Area. No maximum.

    b. Height of Fences and Stored Material. Fences enclosing outdoor storage areas shall be solid and a minimum of 6 and a maximum of 8 feet in height. Fences enclosing outdoor storage areas on properties adjacent to residential uses shall be 8 feet in height.

    c. Outdoor Equipment Storage. Equipment such as forklifts, scissor lifts and boom trucks shall be retracted to the lowest possible height.

    d. Location. Outdoor storage areas shall not be located in required landscape areas.

    e. Fence Design. Slats, boards, or pickets shall have a vertical orientation and a uniform finish.

2. *General Industrial District.*

    a. Area. No maximum.

    b. Height of Fences. Fences enclosing outdoor storage areas shall be a minimum of 8 feet.

    c. Outdoor Equipment Storage. Equipment such as forklifts, scissor lifts and boom trucks shall be retracted to the lowest possible height.

    d. Location. Outdoor storage areas shall not be located in required landscape areas.

    e. Fence Design. Slats, boards, or pickets shall have a vertical orientation and a uniform finish.

3. *Service Business District*.

   a. Area. Outdoor storage areas shall not exceed 50% of the net lot area.

   b. Height of Fences and Stored Material. Fences enclosing outdoor storage areas shall be solid and a minimum of 6 and a maximum of 8 feet in height. Fences enclosing outdoor storage areas on properties adjacent to residential uses shall be 8 feet in height.

   c. Outdoor Equipment Storage. Equipment such as forklifts, scissor lifts and boom trucks shall be retracted to the lowest possible height.

   d. Location. Outdoor storage areas shall not be located in required landscape areas.

C. ***Personal Property Storage.***

1. *Indoor*. Indoor Personal Property Storage units shall be used only for the storage of personal property. No residential or commercial use shall be conducted in a storage unit. No hazardous materials shall be stored in a storage unit.

2. *Outdoor*. Outdoor Personal Property Storage shall be used only for the storage of personal property. No residential or commercial use shall be conducted in vehicles, trailers or other personal property stored in an Outdoor Personal Property Storage facility.

D. ***Residential Access Prohibited.*** Use of employment zoned property to provide primary vehicular access to a residential use is prohibited.

E. ***Outdoor Dining Areas***. Uncovered outdoor dining areas are permitted within the required setback areas adjacent to street frontages, no closer than 10 feet from the property line. Permanent installations shall require Administrative Design Review approval.

F. ***Accessory Buildings.***

1. Number. One Accessory Building is allowed on a Light Industrial or General Industrial District Zoning Lot of 5 acres or less. One (1) additional accessory building is allowed for each additional 5 acres or portion thereof on the same Zoning Lot.

2. Area. An Accessory Building cannot exceed 7% of the size of the Principal Structure on the Zoning Lot. On Zoning Lots containing Principal Structures in excess of 100,000 square feet, the Accessory Building may be a minimum of 7,000 square feet up to a maximum of 3% of the size of the

Principal Structure; however, in no event can the Accessory Building exceed 10,000 square feet.

3. Vehicle Doors. Vehicle Doors shall not face a lot zoned for Residential Use or designated for Residential Use on the Comprehensive Plan Land Use Map.

4. Lighting. Lighting, other than required by the Building Code shall not be attached to an Accessory Building.

G. ***Silos.***

1. Design Review Required. Installation of new silos shall require Administrative Design Review. Administrative Design Review shall evaluate the following location conditions:

   a. Silo shall be located in a manner to minimize visibility from public streets or areas designated for Residential Use on the Comprehensive Plan.

   b. Silos shall be placed in a location to not interfere with vehicle movement areas.

   c. Location review may consider areas to meet business operation requirements.

2. Height. Silos shall be limited to the Maximum Principal Building Height specified in the base Zoning District.

3. Setback. Silos shall meet the Minimum Principal Building setbacks in the base Zoning District

4. Location. Silos shall not be located between the Principal Building and a Public Street.

5. Signage. Signage, other than required for safety, shall not be placed on silos.

6. Lighting. Lighting, other than required by the Building Code shall not be attached to a silo.

H. ***Entertainment and Recreation, Indoor Uses.***

1. Occupancy. Entertainment and Recreation Indoor Small-Scale Use. No Entertainment and Recreation Indoor Small-Scale Use shall exceed an occupancy of 10,000 square feet in any building; and

   a. In a multi-tenant building, the use shall not exceed 30% of the gross floor area.

   b. No multi-tenant building shall have more than one Entertainment and Recreation Indoor Small-Scale Use occupy a building.

2. Events. Entertainment and Recreation Indoor Small-Scale Uses shall not conduct tournaments, competitions, showcases, exhibitions or other events that would have the presence of a large number of spectators. Such activity shall be limited to Entertainment and Recreation Indoor Large-Scale

Chapter 2.7: Public Facility/Institutional District

Sections:

2.701 Purpose
2.702 Land Use Regulations
2.703 Site Development Regulations
2.704 Additional Development Regulations

2.701 Purpose

The purpose of the Public Facility/Institutional District is to provide for utilities and public and quasi-public uses such as schools, hospitals, churches, libraries, recreation centers, golf courses, and parks.

2.702 Land Use Regulations

A. ***Regulations.*** Table 2.702: Land Use Regulations – Public Facility/Institutional District sets forth the land use regulations for the Public Facility/Institutional district. The regulations for the district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.702: Land Use Regulations – Public Facility/Institutional District.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

B. ***Unlisted Uses.*** Uses are defined in Chapter 6: Glossary. If a proposed use is not listed in the Glossary, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.

C. ***Prohibited Uses.*** Uses not listed in Table 2.702: Land Use Regulations – Public Facility/Institutional District below or not assigned to a Glossary pursuant to Section 2.702.B: Unlisted Uses are prohibited.

D. ***Additional Development Regulations.*** Additional development regulations for the Public Facility/Institutional District are set forth in Section 2.704: Additional Development Regulations.

Table 2.702: Land Use Regulations – Public Facility/Institutional District

Use Classification	*PFI*	*Additional Regulations*
Amateur Radio Facilities	L1	See Chapter 4.8
Animal Services *Animal Shelter*	 C	 See Section 4.507
Automated Teller Machine	P, L1	
Business Services	P, L1	
Carnival	T	See Section 4.509
Cemetery	P	
Child Care Facility	P	
Child Care Institution	P	
Clubs and Lodges	P, L2, L3	
Colleges, Public or Private	P	
Convention Center	C	
Crop Raising, Non-Commercial	P	
Cultural Institutions	P	
Eating and Drinking Establishments *Restaurants, Beverage Service*	P, L4, L5	
Entertainment and Recreation, Indoor *Large-Scale* *Small-Scale*	C P	
Entertainment and Recreation, Outdoor	P	
Equestrian Arena	C	See Section 2.704.C
Farmers' Market	A	
Funeral and Undertaking Services	P, L1	
Golf Course	C	
Government Offices and Facilities	P	
Health Care Facilities *Hospital* *Urgent Care Facility*	P P	
Heliport/Helipad	C	
Outdoor Driving Range	C	
Over-The-Air Reception Device	P, L1	See Chapter 4.8
Park and Ride Lot	C	
Parking Facilities	P	
Playing Field	P, L3	
Public Safety Facilities	P	
Religious Assembly	P, L2, L3	See Section 4.505
Satellite Dish Antenna, Large	L1	See Chapter 4.8
Schools, Public or Private	P, L2, L3	
Seasonal Sales	T	See Section 4.509
Shelter Care Facility	P	
Shelter Care Facility, Homeless	C	
Stables, Commercial	P, L1	See Section 2.704.B

Table 2.702: Land Use Regulations – Public Facility/Institutional District		
Use Classification	***PFI***	***Additional Regulations***
Utilities	P	
Facilities	C	
Service Yard	P	
Well Site		
Vehicle Equipment Sales, Leasing and Services:		See Section: 4.512
Fueling Facility, Alternative	P	
Fueling Facility, Fleet	P	
Vehicle Services, Heavy	P	
Vehicle Services, Light	P	
Waste Management:		
Non-Hazardous Waste Collection and Transfer Facility	C	
Non-Hazardous Material Recycling Collection Facility	C	
Video Gaming Establishment	C, L6	See City Code Title 3, Chapter 26
Wireless Communication Facilities:	C	See Chapter 4.7
Monopole	C	
Public Safety Communication Facility	A	
Other Than Monopoles	A	

Limitations

L1: Only as a use incidental to the principal use of the property.

L2: Clubs and Lodges, Public and Private Schools, and Religious Assembly uses shall be located on collector or arterial streets. Conditional Use Permit approval is required for any other location.

L3: Unlighted Outdoor Entertainment and Recreation uses are permitted in conjunction with Public and Private Schools and Religious Assembly uses; lighted Outdoor Entertainment and Recreation uses in conjunction with Public and Private Schools and Religious Assembly uses require a Conditional Use Permit.

L4: Drive-through facilities prohibited.

L5: Shall not front onto arterial street.

L6: Conditional Use Permit is required for either a principal or accessory/incidental use.

2.703 Site Development Regulations

Table 2.703: Site Development Regulations – Public Facility/Institutional District sets forth the site development regulations for the Public Facility/Institutional District, which are in addition to the development regulations set forth in Section 2.704: Additional Development Regulations and Chapter 4.1: Site Regulations. Letter designations in the *Additional Regulations* column refer to regulations that follow Table 2.703: Site Development Regulations.

Table 2.703: Site Development Regulations – Public Facilities & Institutional District		
Standards	***PFI***	***Additional Regulations***
Maximum Building Height (ft.)	55	(A)
Minimum Building Setback (ft.)		(B)
Front	30	
Side (Street)	30	
Side (Residential)	25	
Side (Nonresidential)	15	
Rear (Residential)	30	
Rear (Nonresidential)	15	
Separation between Buildings (ft.)	15	
Single story	20	
Multiple story		
Minimum Required Perimeter Landscape Area		
(ft.)	20	(C)
Front	15	(C)
Side (Collector or local street)	15	
Side (Residential)	15	
Side (Nonresidential)	20	
Rear (Residential)	15	
Rear (Nonresidential)		
Landscaping (% of net lot area)	15	See Chapter 4.3
Building Setback to Parking (ft.)	See Section 4.203.N	
Off-Street Parking and Loading	See Chapter 4.2	
Exterior Lighting Standards	See Section 4.103	

(A) ***Building Height Increase.*** Building height above that permitted in the PF/I district may be granted through the issuance of a Conditional Use Permit pursuant to Chapter 5.4: Use Permits. This provision does not apply to Wireless Communication Facilities.

(B) ***Public Facility/Institutional Uses Adjacent to Residential Districts.*** Public facility/institutional uses located within 50 feet of property designated for residential use in the Comprehensive Plan shall be conducted within an enclosed building. No part of the building within 50 feet of the residential district shall contain bay or roll-up doors, car wash entry or exit points or similar service openings.

(C) ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas and lighting.

2.704 Additional Development Regulations

A. ***Outdoor Storage.*** In addition to the requirements set forth in Section 4.104: Outdoor Business Property Storage, outdoor storage areas shall comply with the following requirements. This section does not apply to Outdoor Personal Property Storage.

1. *Area*. No maximum.

2. *Height of Fences.* Fences enclosing outdoor storage areas shall be a minimum of 6 feet and a maximum of 8 feet.
3. *Location.* Outdoor storage areas shall not be located in required landscape areas.

B. ***Stables, Commercial.***

1. *Minimum Lot Area*. 5 acres.

2. *Structures:*

a. Any structure housing animals shall be set back at least 100 feet from all property lines.

b. The location and operation of any arena shall be as set forth in the Conditional Use Permit. Conditions may be imposed to minimize noise, dust, light, odors, traffic and other negative impacts on adjacent uses.

C ***Equestrian Arenas.***

1. *Minimum Lot Area.* 10 acres.

2. *Structures:*

a. Any structure housing animals overnight shall be set back at least 100 feet from all property lines.

b. Any structure housing animals other than overnight shall be set back at least 50 feet from all property lines.

c. The location and operation of any arena shall be as set forth in the Conditional Use Permit. Conditions may be imposed to minimize noise, dust, light, odors, and other negative impacts on adjacent uses.

D. ***Fueling Facility Abandonment.*** All types of Fueling Facility structures and tanks that are unused and/or vacant for at least 1 year are assumed to be abandoned. Abandoned structures and facilities shall be removed; and the fuel tanks shall be removed within 90 days from the date a notice of abandonment is mailed to the property owner.

E. ***Access to Residential Property.*** Use of property to provide primary vehicular access to a residential use is prohibited.

F. ***Gated Facility Entrances.*** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.

Chapter 2.8: Parks and Open Space District

Sections:

2.801 Purposes and Applicability
2.802 Land Use Regulations
2.803 Site Development Regulations

2.801 Purposes and Applicability

The purposes of the Parks and Open Space (POS) District are to provide for and/or protect parks, trails, waters of the United States, public open spaces, natural areas, and passive and active outdoor recreation facilities that serve the City and surrounding area, and to implement the goals and policies in the Comprehensive Plan. This Chapter shall apply to all publically owned open spaces, or private property permanently restricted to active or passive open space use.

2.802 Land Use Regulations

A. ***Regulations.*** Table 2.802: Land Use Regulations – Parks and Open Space District sets forth the land use regulations for the Parks and Open Space District. The regulations for the district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.802: Land Use Regulations – Parks and Open Space District.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

B. ***Unlisted Uses.*** Uses are defined in Chapter 6: Glossary. If a proposed use is not listed in the Glossary, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.

C. ***Prohibited Uses.*** Uses not listed in Table 2.802: Land Use Regulations – Parks and Open Space District below or not assigned to a Use Definition pursuant to Section 2.802.B: Unlisted Uses are prohibited.

D. ***Site Development Regulations.*** Site development regulations for the Parks and Open Space District are set forth in Section 2.803: Site Development Regulations.

Table 2.802: Land Use Regulations – Parks and Open Space District		
Use Classification	***POS***	***Additional Regulations***
Agritainment	A	
Entertainment and Recreation, Outdoor	P, LI	
Farm Stand	A	
Golf Course	C	
Outdoor Driving Range	C	
Parking Facilities	P	See Section 4.2
Playing Field	P, LI	
Seasonal Sales	T	Limited to Not for Profits See Section: 4.509
Stormwater Management Facility	P	
Utilities Facilities Well Sites	 A A	
Wireless Communication Facilities	A	See Section 4.7
Limitations LI – Illuminated facilities require a Conditional Use Permit		

2.083 Site Development Regulations

Table 2.803: Site Development Regulations – Parks and Open Space District sets forth the site development regulations for the Parks and Open Space District, which are in addition to Chapter 4.1: Site Regulations. Number designations in the *Additional Regulations* column refer to regulations that follow Table 2.803: Site Development Regulations.

Table 2.803: Site Development Regulations – Parks and Open Space District		
Standards	***POS***	***Additional Regulations***
Maximum Building Height (ft.)	20	(A)
Minimum Building Setback (ft.)	30	
Minimum Required Perimeter Landscape Area (ft.)		
Front	30	(B)
Side (Corner)	30	(B)
Side (Interior)	30	
Rear	30	
Building Setback to Parking (ft.)	See Section 4.203.N	
Off-Street Parking and Loading	See Chapter 4.2	
Exterior Lighting Standards	See Section 4.103	

Table 2.803: Site Development Regulations – Parks and Open Space District		
Standards	***POS***	***Additional Regulations***
(A) ***Building Height Increase.*** Building height above that permitted in the POS district may be granted through the issuance of a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.		
(B) ***Street Frontage Landscape.*** Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas and lighting.		

Chapter 3.1: Planned Development Overlay Zoning District

Sections:

3.101 Purposes
3.102 Uses of a Planned Development Overlay Zoning District
3.103 Approval

3.101 Purposes

The purposes of the Planned Development Overlay Zoning District (PD) are to:

A. Modify base district regulations to implement the Comprehensive Plan.

B. Provide opportunities for unique or mixed-use development.

C. Provide opportunities for development intensity greater than permitted by base district regulations for affordable housing, senior housing, and congregate living facilities.

3.102 Uses of a Planned Development Overlay Zoning District

A. ***Extent.*** A Planned Development Overlay Zoning District (PD) may overlay all or part of any base district or contiguous districts. Base district regulations shall apply except to the extent modified by an overlay district. The Official Zoning Map shall identify the area covered by each PD.

B. ***Use of the PD Zoning District.*** A PD may only be adopted for one or more of the following:

1. To modify development regulations of this Title to implement policies in the Comprehensive Plan.

2. To permit unique or mixed-use development.

3. To permit development intensity greater than permitted by base district regulations for affordable housing, senior housing, and congregate living facilities.

4. To permit a concurrent review of structures and neighborhood design, including lot pattern.

C. ***Limitations.***

1. A PD shall not be used to add, eliminate, or restrict uses permitted in the base district regulations.

2. A PD shall be applied only to contiguous property so as to create a unified and cohesive development.

3.103 Approval

A. ***Development Plan.*** A PD shall include a development plan consisting of a site plan, preliminary landscape plan, preliminary building elevations, design guidelines, residential lot layout, open space plan, or other plan applicable to the project. The use and development of the property in a PD shall substantially conform to the development plan approved by the City Council as an exhibit to the PD zoning ordinance.

B. ***Conditions.*** The Plan Commission may recommend, and the City Council may impose conditions of approval including, but not limited to, the following:

1. Timing or phasing of development.

2. Off-site and on-site improvements.

3. Development standards.

4. Creation of design guidelines.

5. Conditions of use.

6. Dedication of land for public purposes, including rights-of way.

7. Granting of utility easements.

8. Granting of cross-access easements.

9. Granting of easements for public use of trails and open space areas.

10. Requirements for establishment of a homeowners or property owners association or other mechanism to assure continued maintenance of commonly owned land and facilities.

11. A requirement for cooperation in the establishment of a back-up Special Service Area to maintain commonly owned land and facilities.

12. Reservation of land for future public acquisition.

C. ***Amendments to an Approved Development Plan.***

1. *Major Amendments.* A Major Amendment to an Approved Development Plan shall be considered via the same process as the original approval.

2. *Minor Amendments*. A Minor Amendment to an Approved Development Plan may be approved by the Director. Denial of a proposed Minor Amendment to an Approved Development Plan may be appealed to the Plan Commission.

Chapter 3.2: Arterial Street Setback Overlay Zoning District

Sections:

3.201 Purposes
3.202 Application of the Arterial Street Setback Overlay District
3.203 Restrictions
3.204 Mapping of the Arterial Street Setback Overlay District
3.205 Size of the Arterial Street Setback

3.201 Purposes

The purposes of the Arterial Street Setback Overlay Zoning District (AS) are to:

A. Establish the location of properties in the City where high traffic volumes cause the need to set buildings and parking back farther from the right-of-way than required by base district regulations.

B. Provide a consistent building and parking setback from arterial streets.

C. Improve the visual appearance of the City from major streets.

3.202 Application of the Arterial Street Setback Overlay Zoning District

The Arterial Street Setback Overlay Zoning District may overlay any base district or contiguous districts. Base district regulations shall apply unless modified by this overlay district. The Official Zoning Map shall identify the area covered by each AS district.

3.203 Restrictions

In the AS Overlay District:

A. No building or parking area shall be constructed or expanded within 50 feet of a Strategic Regional Arterial right of way, as identified in the Comprehensive Plan. Accessory structures not exceeding 120 square feet in area may be located in the rear setback area on residentially zoned properties, as permitted per each district's base regulations.

B. Overnight parking of trucks is prohibited within 50 feet of a Strategic Regional Arterial right of way.

C. Areas within 50 feet of a Strategic Regional Arterial right of way shall be landscaped in accordance with Chapter 4.3 Landscape Regulations.

3.204 Mapping of the Arterial Street Setback Overlay Zoning District

The Official Zoning Map shall identify those areas of the City subject to the AS zoning overlay.

3.205 Size of the Arterial Street Setback

The size of the Arterial Street Setback shall be 50 feet from the right-of-way of the arterial street.

Chapter 3.3: Batavia Avenue Setback Overlay Zoning District

Sections:

3.301 Purposes
3.302 Application of the Batavia Avenue Setback Overlay Zoning District
3.303 Restrictions
3.304 Mapping of the Batavia Avenue Setback Overlay Zoning District
3.305 Size of the Batavia Avenue Setback Overlay Zoning District

3.301 Purposes

The purposes of the Batavia Avenue Setback Overlay Zoning District (BA) are to:

A. Protect residential uses from noise and emissions generated by the high traffic volumes on portions of Batavia Avenue.

B. Provide a consistent residential building setback on Batavia Avenue outside of the downtown area.

C. Improve the visual appearance of the City from Batavia Avenue.

3.302 Application of the Batavia Avenue Setback Overlay Zoning District

The Batavia Avenue Setback Overlay Zoning District may overlay any base residential district or contiguous districts. Base district regulations shall apply unless modified by this overlay district. The Official Zoning Map shall identify the area covered by each BA district.

3.303 Restrictions

In the BA Overlay District:

A. No building shall be constructed or expanded within 50 feet of the Batavia Avenue right of way.

B. Areas within 50 feet of the Batavia Avenue right of way shall be landscaped in accordance with Chapter 4.3: Landscape Regulations.

3.304 Mapping of the Batavia Avenue Setback Overlay Zoning District

The Official Zoning Map shall identify those areas of the City subject to the BA zoning overlay.

3.305 Size of the Batavia Avenue Setback

The size of the Batavia Avenue setback shall be 50 feet from the right of way of Batavia Avenue. The Batavia Avenue setback shall not apply to other rights of way within the overlay district.

Chapter 3.4: Downtown Building Height Overlay Zoning District

Sections:

3.401 Purposes
3.402 Application of the Downtown Building Height Overlay Zoning District
3.403 Height Limits
3.404 Mapping of the Downtown Building Height Overlay District

3.401 Purposes

The purposes of the Downtown Building Height Overlay Zoning District (DBH) are to:

A. Identify locations in downtown Batavia where taller buildings are permitted.

B. Establish a maximum building height in the downtown core area.

C. Preserve views of the Fox River from areas adjacent to downtown, and preserve views of the downtown from across the river.

3.402 Application of the Downtown Building Height Overlay Zoning District

The Downtown Building Height Overlay Zoning District may overlay any base district or contiguous districts. Base district regulations shall apply unless modified by this overlay district.

3.403 Height Limits

In the DBH Overlay District:

A. Buildings may be constructed or expanded to a maximum height of 75 feet.

B. Within 100 feet of the Fox River no building shall exceed 50 feet in height for a distance of more than 50 feet. This measurement shall be taken parallel to the river.

C. Individual building elements exceeding 50 feet in height shall be separated by a distance of 50 feet measured parallel to the river.

3.404 Mapping of the Downtown Building Height Overlay Zoning District

The Official Zoning Map shall identify those areas of the City subject to the DBH zoning overlay.

Chapter 3.5: South River Street Gateway Overlay Zoning District

Sections:

3.501 Purposes
3.502 Application of the South River Street Gateway Overlay Zoning District
3.503 Outdoor Storage
3.504 Setbacks and Landscaping
3.505 Driveway Access
3.506 Lighting
3.507 Mapping of the South River Street Gateway Overlay Overlay District

3.501 Purposes

The purposes of the South River Street Gateway Overlay Zoning District (SRS) are to:

A. Improve the visual image of the South River Street gateway to the City of Batavia.

B. Continue to permit existing industrial, recreational and institutional land uses, while reducing the encroachment of storage areas and buildings into the front yards of properties along South River Street.

C. Establish quality standards for the screening of outdoor storage areas.

D. Create identified driveways for properties having unlimited vehicular access to State Route 25.

E. Establish consistent standards for outdoor illumination.

3.502 Application of the South River Street Gateway Overlay Zoning District

The South River Street Gateway Overlay Zoning District (SRS) may overlay any base district or contiguous districts. Base district regulations shall apply unless modified by this overlay district. The Official Zoning Map shall identify the area covered by the SRS district.

3.503 Outdoor Storage

In the SRS Overlay District:

A. Contractors Yards and Outdoor Business Property Storage shall be screened by a fence or wall that provides a minimum opacity of 90% and is no less than 6 feet in height from:

1. Rights-of-way;

2. Schools;

3. Clubs and Lodges;

4. Parks and Open Space uses, other than public trails; and

5. Adjacent residential uses.

B. Fences in the front setback area on properties fronting on South River Street shall be 8 feet in height and of a uniform color.

C. Access gates in areas where solid fence screening is required shall be solid, except that up to 8 feet or one gate panel may be up to 50% transparent.

D. All fences and walls shall be maintained in a clean, attractive and orderly fashion. Broken or missing fence and wall elements shall be promptly repaired or replaced. Fences and walls shall be periodically cleaned or painted so as to maintain an even and consistent finish.

E. All fences required by this section shall require Administrative Design Review.

3.504 Setbacks and Landscaping

A. Buildings, fences and walls shall be set back a minimum distance of 53 feet from the centerline of South River Street.

B. Signs shall be set back a minimum distance of 43 feet from the centerline of South River Street.

C. All areas of a lot or parcel not used for parking, driveways or drive aisles, structures or outdoor storage shall be landscaped in accordance with the requirements of the adopted Standard Design Review Conditions for Commercial and Industrial Projects. Landscaped areas shall be maintained in a neat and orderly manner, free of weeds and debris.

D. Parking areas for employees, customers, members and visitors shall be set back from the right-of-way of South River Street a minimum distance of 10 feet. Parking areas with more than 4 spaces shall be screened from South River Street in accordance with the requirements of Section 4.211.

3.505 Driveway Access

Each lot or parcel shall have a maximum of two driveway accesses from South River Street. Each driveway access shall not exceed 40 feet in width. Frontage areas outside of permitted driveway access points shall be protected from vehicle access by a 6 inch vertical concrete curb.

3.506 Lighting

A. All freestanding light poles shall:

1. Be located to avoid conflict with trees.

2. Be of a height proportional to the size of the building and parking area, but in no case shall the light pole and fixtures exceed a height of 25 feet.

B. Freestanding light poles in parking areas shall:

1. Be located in landscaped areas or planter islands, or on sidewalks, maintaining an accessible sidewalk width.

2. Have concrete bases no taller than 18 inches painted to match the primary building color or finished to match parking screen walls, or shall have decorative steel bases.

C. Parking lot lights, wall-mounted lights and under canopy lights shall have full cutoff fixtures and be installed horizontal to the ground. Under canopy light fixtures and lenses shall not project below the canopy soffit. The maximum light spill at any point on the property line of adjacent residential property shall be .5 foot-candles. No light shall cast a glare on any public street.

3.507 Mapping of the South River Street Gateway Overlay Zoning District

The Official Zoning Map shall identify those areas of the City subject to the SRS zoning overlay.

Chapter 4.1: Site Regulations

Sections:

4.101 Encroachments Into Building Setback and Interior Building Separation Areas
4.102 Projections Above Height Limits
4.103 Lighting Standards
4.104 Outdoor Business Property Storage
4.105 Screening of Mechanical and Electrical Equipment
4.106 Refuse, Recycling, Grease Container, Compacting Equipment Enclosures
4.107 Swimming Pools
4.108 Fences
4.109 Recyling Collection Bins
4.110 Limitations for Structures on Easements
4.111 Sight Distance Triangle

4.101 Encroachments into Building Setback and Interior Building Separation Areas

A. The building setback areas in all districts shall remain unobstructed except where permitted by this Section.

B. For single family uses in single family residential districts, these regulations are in addition to those set forth in Chapter 2.1: Single Family Residential Districts.

C. For single family uses in single family residential districts, permitted encroachments into the required side clear area are set forth in Section 2.104.B: Side Clear Area.

D. For all uses in single family residential districts, balconies, stairs, chimneys, canopies, covered patios, and awnings may encroach no more than 3 feet into any required building setback area, but in no event shall the encroachment be closer than 3 feet from the property line.

E. For all uses in single family residential districts, uncovered decks not over 3 feet above grade may encroach into the rear setback to within 10 feet of the property line.

F. In multi-family and nonresidential districts, canopies and awnings may encroach no more than 3 feet into any required building setback or interior building separation area.

G. For single family uses in single family residential districts, bay windows may encroach no more than 3 feet into any required building setback area. A bay window encroachment shall not exceed 1/3 the length of the wall plane upon which it is located.

H. Belt courses, cornices, window sills, quoins, and similar decorative architectural features may encroach no more than 18 inches into any required building setback or interior building separation area.

I. Roof overhangs may encroach no more than 5 feet into a required side building setback or interior building separation area, but shall not be closer than 3 feet from a side property line.

J. In single family residential districts, roof overhangs may encroach no more than 3 feet into a required front and rear building setback area.

K. For single family uses in single family residential districts, covered porches may project up to 6 feet into the required front and corner side building setback areas. In no case shall the porch be set back less than 10 feet. Where the single family residence has a nonconforming front or corner side setback, a covered porch may extend up to 4 feet from the existing, nonconforming building.

L. Fences, pursuant to Section 4.108: Fences.

M. Freestanding signs may encroach into required building setback areas, pursuant to Chapter 4.4: Sign Regulations.

N. Accessory structures may encroach into required side and rear building setback areas, pursuant to Section 2.106.A: Accessory Structures; Section 2.205.A: Accessory Structures; Section 2.305.A: Accessory Structures; Section 2.405.D and Section 2.505.D: Accessory Structures.

O. Outdoor lighting fixtures may encroach into required building setback areas, pursuant to Section 4.103: Lighting Standards.

P. Arbors and trellises may be located in any setback area. Arbors and trellises in excess of 6 feet in height shall be setback at least 5 feet from any property line.

Q. Accessible ramps, lifts or other items subject to the Americans with Disabilities Act reasonable accommodation requests may encroach into a required front, rear, side or corner side building setback to allow for access purposes in all Single Family Residential Districts (R0, R1-L, R1-M and R1-H), the R2 - Two Family Residential District, and the R3 Multi-Family Low Density Residential Zoning Districts. The structure shall be designed with the least amount of encroachment needed for sufficient access and shall be approved by the Planning and Zoning Officer and the Building Commissioner. The encroachment into a building setback for a ramp or lift in the R4, Multi-Family Medium Density or R5, Multi-Family High Density Zoning Districts shall require Administrative Design Review.

R. For all residential uses in any single family (R0, R1-L, R1-M, R1-H) Zoning District, R2 - Two Family, and R3 - Multi- Family Low Density residential districts, uncovered decks over three (3) feet above grade may encroach into the required rear setback no more than eight (8) feet, but in no case shall the encroachment be closer than 10 feet from the rear property line. The encroachment shall not be permitted on or over any easement.

4.102 Projections Above Height Limits

The following projections above base district height limits are permitted:

A. Belfries, domes, chimneys, cupolas, skylights, clock towers and other similar structural elements not used for human occupancy, may project above the base district height limit, provided that they do not cover more than 20 percent of the roof area.

B. Mechanical equipment and enclosures, elevator penthouses, ventilators, and other similar equipment, may project up to 5 feet above the base district height limit, but may not exceed the height of parapet walls.

C. Theater scenery lofts only to the height necessary to accomplish their purpose.

D. Church steeples, religious symbols, or similar elements on religious assembly buildings.

E. Flagpoles, pursuant to Section 4.402.G: Flagpoles.

F. Wireless communications facilities, pursuant to Chapter 4.7: Wireless Communication Facilities.

G. Over-the-Air Reception Devices, Large Satellite Dish Antennas and Amateur Radio Facilities pursuant to Chapter 4.8: Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities.

4.103 Lighting Standards

A. ***Applicability.*** Parking lot, security, soffit, common open space, and wall mounted lighting, other than on single family residences, shall be located, developed, and operated in compliance with the following regulations:

1. All outdoor fixtures, other than bollard or decorative lighting, shall be set back from all rights of way and property lines of parcels designated for residential use in the Comprehensive Plan by a minimum of:

   a. 10 feet; or

   b. a distance equal to the height of the fixture.

2. The only permitted outdoor light fixtures within required perimeter landscape areas separating nonresidential uses from residential uses and separating multi-family residential uses from single family residential uses shall be bollard lighting.

3. Parking lot and pole mounted security lighting shall not exceed a maximum height of 15 feet, exclusive of the height of concrete pole bases, within:

   a. 100 feet of a residential district boundary; or

   b. 100 feet of land designated for residential use in the Comprehensive Plan.

   In all other areas, parking lot and security lighting shall not exceed a maximum height of 25 feet, exclusive of the height of concrete pole bases, except in the GI District storage area lighting shall not exceed a maximum height of 30 feet, exclusive of the height of concrete pole bases.

4. Wall-mounted fixtures shall be a maximum height of 15 feet above grade, as measured from grade to the bottom of the light source. In the LI Light Industrial and GI General Industrial districts, such lights on walls not facing property currently used or designated in the Comprehensive Plan as Residential may be a maximum of 25 feet above grade. Where all existing lights are located above this limit and an addition to the building is to be constructed, lights proposed on the addition may match the height of the lowest existing lights above the height limits. Wall-mounted fixtures shall be full cutoff type, with the bottom of the light source being parallel to the ground.

5. Pole-mounted fixtures shall be full cutoff type only, with the bottom of the light source being parallel to the ground. Semi-cutoff pole-mounted fixtures are prohibited.

6. All lighting must be located under fueling facility canopies, drive-through canopies, customer loading canopies, and similar structures. All light fixtures must be fully recessed. No portion of the fixture shall project below the ceiling or soffit of the canopy structure.

B. Illumination Standards.

1. Non-Residential Uses.

   a. Lot lines. Outdoor lighting must not exceed one foot- candle at any point on the lot line. If the property adjoins a residential zoning district or a property designated for residential use on the Comprehensive Plan Land Use Map, the light level at the lot line must not exceed one- half foot-candle.

   b. Canopies. Outdoor lighting located under a canopy structure must not

exceed a maximum of 35 foot-candles.

c. Drive Aisles and Parking Lots. Outdoor lighting levels in drive aisle or parking lot areas must not exceed 10 foot- candles at any point on the property designed for this use.

d. Outdoor Entertainment and Recreation Facilities. Illuminated Outdoor Entertainment and Recreation facilities must not exceed an average of 50 foot-candles in any area illuminated for recreation activities. The maximum level at any point in the recreation area must not exceed 60 foot-candles The installation of new, replacement or modification of lighting for recreational facilities shall require Design Review approval.

e. Maximum Illumination. In no event should lighting on a site exceed 20 foot-candles unless it is otherwise permitted in this section.

2. Residential Uses.

a. Properties located in a Multi-Family Residential District shall not exceed one-half foot candle at the property line when the adjacent property is located in a Single-Family Residential Zoning District. Outdoor lighting along the lot line must not exceed one foot-candle at the property line when the adjacent property is in a Commercial or Employment Zoning District.

3. Sign Illumination. Illumination standards for signs are set forth in Chapter 4.4 Sign Regulations of the Zoning Code.

C. ***City Code Compliance.*** Additional light and glare regulations are set forth in the City Code.

4.104 Outdoor Business Property Storage

The purpose of this section is to regulate outdoor storage of business property and incidental display of goods. This section does not apply to Outdoor Personal Property Storage or display of goods associated with an allowed Temporary Use. Unless otherwise provided for in a specific base zoning district, outdoor storage and incidental display of goods shall comply with the following requirements:

A. Business property storage shall be limited to inventory, stock, supplies, equipment, and similar material not displayed for sale, rental, or lease. Incidental display shall be limited to goods sold on the premises.

B. The maximum percentage of a lot that may be used for outdoor storage is set forth in each base zoning district.

C. Outdoor storage areas shall be enclosed by a solid fence or wall.

D. The height of the fence or wall is set forth in each base zoning district.

E. Stored materials shall not exceed the height of the fence or wall, except in the General Industrial and Public Facilities/Institutional zoning districts.

F. Outdoor storage and incidental display areas in all districts shall not be located in a required landscape area.

G. Outdoor storage areas are prohibited in building setback areas in all zoning districts, except in the Light Industrial and General Industrial districts.

H. Incidental display areas shall be surfaced with concrete or asphalt, or modular paver material installed pursuant to an issued building permit. Outdoor storage areas shall be surfaced with concrete, asphalt, gravel, or other approved dust free surface.

I. Unless otherwise required by the Fire Chief or their designee, access aisles to outdoor storage areas shall be surfaced with a minimum of a 4-inch-thick road base on compacted soil with dust palliative to support emergency apparatus and to reduce particulate matter.

J. All driveways accessing outdoor storage and incidental display areas shall be paved with asphalt or concrete.

K. All areas for vehicle parking or where vehicles maneuver to access storage and incidental display areas shall be paved with asphalt or concrete.

L. The outer perimeter of gravel areas shall be enclosed by a curb consistent with Section 11-5-6.P of the Subdivision Code or alternative design approved by the City Engineer.

M. Goods in incidental display areas shall not exceed 8 feet in height including a trailer on which the goods are located or 6 feet in height if goods are not on a trailer.

N. Incidental display areas shall not occupy more than 200 square feet.

O. Incidental display areas shall not encroach on pedestrian ways, fire lanes, or access aisles

4.105 Screening of Mechanical and Electrical Equipment

A. ***Applicability.*** This section applies to:

1. All nonresidential uses.

2. Residential uses in single family districts.

3. Multi-family residential uses.

4. Subdivision common area facilities.

5. Public facility and institutional uses.

B. Equipment Subject to Screening Requirements.

1. *Nonresidential Uses.* The following equipment shall be fully screened in accordance with this section:

a. Ground-, building-, and roof-mounted mechanical and utility equipment. Such equipment includes, but is not limited to, heating and air conditioning equipment, refrigeration equipment, electrical equipment and meters, storage tanks, transformers, backflow prevention devices, exhaust fans, and vents.

b. Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities are regulated by Chapter 4.8: Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities.

c. Mechanical and electrical equipment listed in Section 4.105.B.1.a. shall be fully screened from view from public and private streets, areas accessible to the general public, and from areas shown for residential use in the Comprehensive Plan. If the Plan Commission, or for Administrative Design Review, the Community Development Director determines that the equipment will only be visible from permanently unoccupied areas, the screening requirement may be waived or modified. The screening method shall be depicted on plans submitted with applications for preliminary subdivision plats, design review and building permits.

d. Roof-mounted mechanical equipment shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the mechanical units. These building elements shall be an integral part of the building design.

e. Utility equipment such as electric and gas meters, switch gear, junction boxes, and similar equipment shall be screened using architecturally compatible fences or landscaping. Utility panels shall be fully recessed into the building elevation and enclosed by lockable exterior doors, or shall be screened by a decorative fence equal to or exceeding the height of the panel.

f. Utility transformers and similar equipment shall be located to minimize their view from public streets, walkways, public and private parks, plazas, etc. These devices shall be located in areas that are not immediately adjacent to streets, driveways, parking lots, or public gathering areas. Where visible from these areas, the equipment shall be oriented so that it can be screened with berms, fences, landscaping, or a combination thereof, while maintaining required access to the equipment.

2. *Residential Uses in Single Family Districts*. Roof-mounted mechanical

equipment is prohibited.

3. *Multi-Family Residential Uses:*

   a. Roof-mounted mechanical equipment shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the mechanical units. These building elements shall be an integral part of the building design.

   b. Ground mounted mechanical equipment shall be screened from public and common area view by a decorative screen fence. The fence shall exceed the height of the equipment by at least 1 foot.

4.106 Refuse, Recycling, Grease Container, and Compacting Equipment Enclosures

A. ***Applicability.*** All refuse, recycling, grease containers, and compacting equipment shall be stored in an enclosure. An enclosure is required for all new and existing multi-family residential and nonresidential developments, except as otherwise provided in the City Code.

B. ***Standards***. Refuse, Recycling, and Grease Container Enclosures shall comply with the following requirements:

1. Refuse, Recycling, Grease Container, and Compacting Equipment Enclosures shall not be located in any required stormwater management area or easement area.
2. Refuse, Recycling, Grease Container, and Compacting Equipment Enclosures shall be setback a minimum of 3 feet from any access aisles, driveways, and travel ways.
3. All enclosures shall have a gate. Enclosure gates shall not open into any parking space or landscape area. Enclosure gates shall remain closed except when storage containers are being loaded or emptied.
4. Refuse, Recycling, Grease Container, and Compacting Equipment Enclosures shall be located in the interior side yard or rear yard of the property. In no case shall an enclosure be located closer than 5 feet from the rear and interior side property line. On properties abutting a residentially zoned property, an enclosure shall be located a minimum of 10 feet from the rear and interior side property lines.
5. Refuse, Recycling, Grease Container, and Compacting Equipment Enclosures shall be a minimum height of 6 feet and fully screen stored material, containers, compactors, and similar equipment.
6. Enclosures for Refuse, Recycling, Grease Container, and Compacting Equipment are not required within the Light Industrial and General Industrial districts when a container is located in an approved Outdoor Storage Area that is fully enclosed by a solid fence that provides screening from the public view.
7. Enclosures shall comply with the landscaping regulations of Chapter 4.3
8. A single enclosure may be provided for a multiple tenant commercial building

with the approval of the Plan Commission through Design Review.

9. Administrative Design Review and a Building Permit is required for the construction, replacement, and maintenance of a Refuse, Recycling, and Grease Container enclosure.

C. ***Materials and Design.*** Refuse, Recycling, Grease Container, and Compacting Equipment Enclosures shall be constructed and maintained as follows:

1. Enclosures for new development shall be constructed of solid masonry or concrete with a decorative exterior finish that complements the principal structure.
2. All gates shall be constructed of solid heavy gauge metal or a heavy gauge metal frame with a solid composite material for screening. Chain link and wood gates are prohibited, unless otherwise permitted in this Section.
3. Enclosures shall be protected from adjacent vehicle parking and driveways by a 6- inch poured-in-place concrete curb, bollards painted to match the enclosure, or an alternative design approved by the City Engineer.
4. Enclosures for existing buildings located within the General Commercial, Office, Service Business, Light Industrial, and General Industrial districts shall be constructed of solid masonry, concrete with a decorative exterior, or composite material that complements the principal structure.
5. Enclosures for existing buildings located within a Multi-Family, Downtown Mixed Use, Mixed Use, Public Facilities and Institutional, Neighborhood Commercial, or Community Commercial Zoning District shall be constructed with solid masonry, concrete with a decorative exterior, composite material or treated wood. A wooden enclosure shall be constructed with metal posts.
6. Privacy Slats shall be prohibited for all enclosures and gates.

4.107 Swimming Pools

A. Location

1. *Single and Two Family Residential Districts*. Swimming pools on any single and two family residential lot shall be:

   a. located in the rear yard;

   b. set back 10 feet from any property line;

   c. located outside of any recorded easement.

2. *Multifamily and Nonresidential Districts*. In any multifamily or nonresidential district, a swimming pool shall not be closer than 20 feet to any property line.

3. *Public Swimming Pools*. No public swimming pool shall be located closer

than 25 feet to any property line.

B. Safety Barriers and Gates

1. *Safety Barriers*. All swimming pools shall be enclosed by a safety barrier in accordance with the Batavia Building Code.

2. *Gates.* All gates shall be substantially the same height as the wall or the fence and shall be self-closing and self-latching.

4.108 Fences

These fence regulations are in addition to the requirements of Section 4.104: Outdoor Business Property Storage and Chapter 4.2: Off-Street Parking and Loading Regulations.

A. ***All Districts***

1. *Prohibited Fences.* Electric fences and razor wire are prohibited in all zoning districts.

2. *Finished Side.* The finished side of a fence shall face the exterior of the lot.

3. *Property Lines.* A fence may be located on a property line, but shall not cross the property line or connect with an adjacent fence without written consent of the adjacent property owner.

4. *Gate Required.* A fence, in the rear setback area of a double frontage lot, located within 10 feet of a right of way shall contain a gate or opening allowing passage. A maximum of one gate is required per zoning lot.

5. *Temporary Fencing.* Temporary fencing is permitted in conjunction with:

   a. Construction sites.

   b. Temporary uses pursuant to Section 4.509: Temporary Uses.

   c. Special events, pursuant to a Special Event permit.

   d. Dangerous or hazardous conditions as determined by the Building Commissioner or Fire Chief.

6. *Maintenance.* All fences shall be permanently maintained in good condition and repaired or replaced when necessary to ensure continued compliance with the requirements of this section.

7. *Height.* Unless otherwise restricted herein, no fence shall exceed 14 feet in

height.

8. *Ground Clearance.* Fences located in easements or areas designed for or used to convey stormwater shall have panels, pickets, or chain link/wire fabric located no closer than 2 inches above grade. Such fences that are constructed of masonry shall have openings to allow water passage.

9. *Stormwater Detention Fences.* Fences used to delineate stormwater detention areas shall have a maximum opacity of 50%.

B. ***Residential Districts***

1. *Security Fences.* Barbed wire and similar fence types are prohibited.

2. *Front Setback Area Fences.* Fences within the required front setback areas shall not exceed a height of 3 feet. Fences constructed of chain link, chicken wire, hex netting or any other wire material are prohibited in residential front setback areas.

3. *Corner Side Setback Area Fences.* Fences within the required corner side setback area shall not exceed a height of 4 feet, except when located along a rear property line where the fence cannot exceed a height of 6 feet. Fences constructed of chain link, chicken wire, hex netting or any other wire material are prohibited in residential corner side setback areas, except for fences located along a rear property line.

4. *Side or Rear Setback Area Fences.* Fences located in the side or rear setback area shall not exceed a height of 6 feet from finished grade on either side of the fence.

5. *Lot Line Fences.* Rear and side lot line fences on residential properties adjacent to commercial or industrially zoned properties or Strategic Regional Arterial Streets as designated in the Comprehensive Plan shall not exceed 8 feet in height.

6. *Recreational Fences.* Chain link or woven wire tennis and sport court fencing is permitted within the building envelope.

7. *Double Frontage (Through) Lots.* Fences constructed of chain link, chicken wire, hex netting or any other wire material are prohibited along each frontage.

C. ***Commercial, Office, and Mixed Use Districts***

1. *Security Fences.* Barbed wire and similar fence types are prohibited.

2. *Front and Corner Side Setback Area Fences.* Fences within the required front and corner side setback areas shall not exceed a height of 3 feet.

3. *Side or Rear Setback Area Fences.* Fences located in the side or rear setback area shall not exceed a height of 8 feet from finished grade on either side of the fence, other than as required to screen loading or storage areas. Such screen fences shall not exceed a height of 14 feet.

4. *Lot Line Fences.* Rear and side lot line fences adjacent to properties designated for residential use in the Comprehensive Plan shall not exceed 8 feet in height.

D. ***Downtown Mixed Use District***

1. *Front and Corner Side Setback*. Fences located between the minimum and maximum building setback shall not exceed 3 feet for a solid fence and shall not exceed a height of 4 feet for an open faced fence from finished grade on either side of the fence.

2. *Side or Rear Setback*. Fences located in the provided side or provided rear building setback shall not exceed a height of 6 feet from finished grade on either side of the fence, unless the adjacent property is residentially zoned, a fence height of 8 feet shall be permitted.

3. *Prohibited Material*. Fences located in all setbacks shall comply following:

   a. Fences constructed of chain link, chicken wire, hex netting or any other wire material are prohibited.

   b. Barbed wire and similar fence types are prohibited.

E. ***Employment Districts***

1. *Security Fences.* Barbed wire and similar fence types shall be located a minimum of 7 feet above adjacent grade.

2. *Fences in Front or Corner Side Setback.* A fence located in a front or corner side setback area shall:

   a. be set back a minimum of 20 feet from the property line, and

   b. not exceed a height of 6 feet.

3. *Side or Rear Setback Area Fences.* Fences located in the side or rear setback area, or on the side or rear property line when adjacent to property in the Limited Industrial or General Industrial districts, shall not exceed a height of 12 feet from finished grade on either side of the fence. A fence located on, or within 5 feet of a side or rear property line when adjacent to property not in

the Limited Industrial or General Industrial districts cannot exceed 8 feet in height.

4. *Transitional Setback Adjacent to Residential Use.* A fence adjacent to a property designated for residential use in the Comprehensive Plan shall be provided and:

   a. be of solid construction

   b. be eight feet in height, and

   c. be located on the property line, or

   d. set back a minimum of 20 feet from the property line, with gate openings provided every 250 feet.

F. ***Parks and Open Space and Public Facility/Institutional Districts***

1. *Security Fences.* Barbed wire and similar fence types are prohibited, except where deemed necessary for Homeland Security purposes by the Planning and Zoning Officer.

2. *Front and Corner Side Setback Area Fences.* Fences within the required front and corner side setback areas shall not exceed a height of 3 feet. Fences constructed of chain link, chicken wire, hex netting or any other wire material are prohibited in Parks and Open Space and Public Facility/Institutional Districts front and corner setback areas when adjacent to a residentially zoned district.

3. *Side or Rear Setback Area Fences.* Fences located in the side or rear setback area shall not exceed a height of 8 feet from finished grade on either side of the fence, other than as required to screen loading or storage areas. Such screen fences shall not exceed a height of 14 feet.

4. *Lot Line Fences.* Rear and side lot line fences adjacent to properties designated for residential use in the Comprehensive Plan shall not exceed 8 feet in height.

5. *Recreational Fences.* Tennis and athletic court fencing is permitted within the building envelope.

4.109 Recycling Collection Bins

Recycling Collection Bins, as defined herein, are prohibited in all zoning districts.

4.110 Limitations for Structures on Easements

No structure, other than fences allowed by this Zoning Code, may be placed on Easements for Public Utility, Open Space, Conservation or Drainage purposes, except for structures related to public utilities or drainage. Structures on all easements shall not alter drainage or grade of the property without City approval and shall be subject to the requirements specified in the easement document, except for pools which are prohibited by this Code on all easements.

4.111 Sight Distance Triangle

Wherever a vehicle or bicycle use area intersects a vehicle, bicycle, or pedestrian use area, a Sight Distance Triangle shall be maintained. This area shall extend along the right-of-way line if present, otherwise along proximate property lines or along the edge of pavement if no proximate property line is present, for a distance of 20 feet with a line connecting the ends of this distance opposite the intersection to form an approximate triangular shape.

There shall not be located at any time in the Sight Distance Triangle any building, structure, sign, fence, or other object that may in any way interfere with the line of sight of operators of vehicles or bicycles, or pedestrians in these use areas. Landscaping in these use areas shall be maintained to not exceed a height of no more than two (2) feet. Trees shall maintain a canopy that is a minimum of five (5) feet above the grade of the higher of the proximate vehicle/bicycle or pedestrian use area. Buildings located in the Downtown Mixed Use Zoning District (DMU) are exempt from the requirements of this section.

Chapter 4.2: Off-Street Parking and Loading Regulations

Sections:

4.201 Purposes
4.202 Applicability
4.203 General Provisions
4.204 Number of Parking Spaces Required
4.205 Dimensions for Parking Spaces and Aisles
4.206 Parking Access
4.207 Driveway Widths
4.208 Surfacing
4.209 Drive-Through and Take-Out Facilities
4.210 Passenger Loading Areas
4.211 Screening, Landscaping and Lighting
4.212 Parking Space and Aisle Setbacks at Driveway Entrances
4.213 Parking for Persons with Disabilities
4.214 Off-Street Loading
4.215 Bicycle Parking
4.216 Electric Vehicle Charging Station
4.217 Truck and Semi-Trailer Parking

4.201 Purposes

The purposes of the off-street parking and loading regulations are to:

A. Ensure that adequate but not excessive parking is provided for new land uses and major alterations to existing uses to meet the parking needs created by such uses.

B. Establish regulations for new uses, new or relocated buildings and buildings that have been altered or expanded.

C. Ensure that off-street parking and loading areas are designed and located to protect the public safety, minimize congestion, reduce solar heat gain for unshaded parking areas, minimize traffic conflicts and congestion on parking aisles and public streets, and buffer surrounding land uses and public areas from visual and noise impacts.

D. Ensure pedestrian-friendly parking areas by providing for safe pedestrian routes, parking lot lighting, adequately sized parking spaces and aisles, landscaping and shade trees.

E. Provide for the accessibility needs and requirements of disabled and elderly persons.

4.202 Applicability

These regulations apply to new uses and expansion of existing uses created after the effective date of the Zoning Code.

4.203 General Provisions

A. ***Required Parking.*** All required parking shall be provided on site, except as provided in Section 4.203.G: Shared Parking and Section 4.203.I: Parking in the DMU Downtown Mixed Use Zoning District. The number of parking spaces required for individual uses in the Zoning Code is set forth in Section 4.204: Number of Parking Spaces Required. All parking required by this Chapter shall consist of a hard surface such as, but not limited to concrete, asphalt, pavers or permeable pavers.

B. ***Required Parking and Parking Lot Landscaping for Structures that are Altered.*** The parking and parking lot landscaping requirements of this chapter shall apply when an alteration to an existing structure affects parking requirements conformity. When a nonconforming structure is altered, the non-conforming parking and landscaping shall be modified to reduce or eliminate non-conformity with this section. The percentage of the parking and landscaping that is permitted to remain non-conforming shall be determined by the Director of Community Development for Administrative Design Review and the Plan Commission for Design Review applications.

C. ***Uses Not Mentioned.*** Parking requirements for a use not identified in this chapter shall be determined by the Planning and Zoning Officer based on parking requirements for the most similar use listed in Chapter 6: Glossary. The Planning and Zoning Officer may require submission of a parking study prepared by a person licensed to prepare such study.

D. ***Fractional Spaces***. If the number of parking spaces required in this chapter results in a fraction, the required number shall be rounded to the nearest whole number. For example, if the computed requirement equals 9.5 spaces, 10 spaces are required. If the computed requirement equals 9.4 spaces, 9 spaces are required.

E. ***Computation of Required Parking for Residential Use.*** Residential parking for multi-family uses shall be based on the number of bedrooms. Any rooms defined as bedrooms by the City of Batavia Building Regulations shall be counted as a bedroom for the purpose of determining off-street parking requirements.

F. ***Visitor Parking.*** On-street parking may be counted toward the visitor parking requirement for developments in the R2 Two Family, R3 Multi-Family Low Density, R4 Multi-Family Medium Density, and R5 Multi-Family High Density zoning districts provided that the street has a minimum 8.5 foot wide legal parking area exclusive of travel lanes. To qualify as one visitor parking space, there shall be an uninterrupted 22 foot long space and a sidewalk adjacent to the parking side of the street. The City may require on-street visitor parking spaces to be striped.

G. ***Shared Parking.*** Where a use generates parking demand primarily during hours when an adjacent use or uses are not in operation or generate shared trips, a reduction of up to 50 percent of the required parking may be approved by Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes. The application for an Administrative Use Permit shall include:

1. Submission of a parking study prepared by a person licensed to prepare such study;

2. Proposed documents for recordation of cross-easements for parking purposes satisfactory to the City Attorney; and

3. Proposed documents satisfactory to the City Attorney to ensure maintenance of the shared parking spaces.

H. ***Deferred Parking for Unique Uses.*** Where a business has or will have a unique parking demand, a deferral of up to 50 percent of the required parking may be approved by an Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes, and shall specify the conditions under which the deferred parking will be required to be constructed. The application shall include:

1. A parking study prepared by a person licensed to prepare such study; and

2. A site plan showing all required parking areas and parking areas proposed to be deferred.

I. ***Parking in the DMU Downtown Mixed Use Zoning District.*** The following Section shall apply as requirements for the Downtown Mixed Use District.

1. *New Tenancies in an Existing Building.* On-site parking shall not be required for a new non-residential tenant, or for 4 or fewer residential units, in a building existing on the date of adoption of this code section.

2. *Building Additions.* On-site parking shall not be required for a new non-residential tenant, or for 4 or fewer residential units, in that portion of a building existing on the date of adoption of this code section. Additional parking required for the expansion area or increase in the number of residential units that result in 5 or more total units in the building shall be provided on-site, or off-site pursuant to this code. A fee in lieu of any spaces not constructed shall be paid to the City in an amount specified in Section 3-20-2 of the City Code.

3. *New Buildings.* Parking required for the uses contained in the building shall be provided on-site. A fee in lieu of any spaces not constructed shall be paid to the City in an amount specified in Section 3-20-2 of the City Code. Off-site parking may be approved pursuant to this code.

4. *Off-site Parking.* Where required parking spaces cannot be provided on-site, off-site parking may be approved by an Administrative Use Permit. The Administrative Use Permit may require the provision of a minimum number of on-site parking and loading spaces. The Administrative Use Permit shall terminate if the use changes. The application shall demonstrate that:

   a. The off-site parking spaces shall be located within 1,000 feet of the use.

   b. The off-site parking spaces shall be improved to the standards set forth in this Chapter.

   c. Cross-easements for parking shall be recorded in a form satisfactory to the City Attorney, or evidence provided of adequate public parking.

5. *City Parking Lots*. The City may install temporary parking lots, having 40 spaces or fewer, in the DMU District, with alternate design allowances as follows:

   a. Perimeter curb and gutter is not required

   b. One landscaped island shall be required per every 12 spaces

   c. Perimeter screening shall be required from adjacent rights-of-way, but perennial grasses may be a permitted screening material provided it creates a screening of at least three (3) feet in height by July 1 of each year

   d. Ingress/egress drives do not need to follow the requirements of Section 4.206A.2 where it is not feasible

   e. No minimum total interior open space amount is required

   f. Parking lots shall either be removed or modified to comply with the parking lot requirements no later than five (5) years after initial installation, unless otherwise determined to be in the City's best interest by the City Council.

   g. In no event shall the parking lot remain in the temporary condition more than ten (10) years.

J. ***Temporary Use of Parking Area.*** Unless otherwise prohibited by the Zoning Code, the temporary use of parking areas for uses other than parking is permitted provided that:

1. The non-parking use complies with all license requirements.

2. The use does not occupy any parking spaces required by Table 4.204: Off-Street Parking Requirements of this Chapter.

3. The use does not interfere with fire or emergency vehicle access.

4. The use does not create a traffic hazard or interfere with vehicular or pedestrian circulation on the site.

5. The use provides accessible parking in accordance with applicable laws.

6. The non-parking use is conducted with written property owner authorization.

K. ***Parking for Age Restricted Uses.*** A reduction in parking requirements for an age restricted residential use may be approved by an Administrative Use Permit where the project is restricted by covenant or deed restriction to an age restricted use. Any such approval shall be based on a parking study or other acceptable evidence that supports the requested parking reduction. In no event shall required parking be reduced below 0.5 parking spaces per dwelling unit. Parking requirements for the residential use shall revert to those specified in this Chapter if age restrictions are no longer in effect.

L. ***Restrictions on Parking in Commercial and Office Districts***

1. Recreational vehicles, trailers, commercial vehicles or combinations of vehicles exceeding 21 feet in length, not owned or operated by a business on the property, shall not be parked within any property zoned Neighborhood, Community, or General Commercial, Mixed Use, Downtown Mixed Use, or Office, except for the purpose of loading, unloading, service, or patronizing a commercial use on the site; and

2. In the Neighborhood, Community or General Commercial, Mixed Use, Downtown Mixed Use and Office districts, no vehicle shall be parked overnight and used for permanent or temporary habitation.

M. ***Prohibited Parking.*** Parking shall be prohibited in the following locations:

1. Fire lanes.

2. Required landscape areas.

3. Unimproved properties or portions of properties in nonresidential and multi-family districts.

4. Outside areas not designated for parking on an approved Design Review plan.

N. ***Separation from Buildings.*** Parking spaces shall be separated from a nonresidential or multi-family building by:

1. A raised walkway of at least 4 feet in width exclusive of any overhang permitted in Section 4.203.O: Parking Overhang, or;

2. A raised landscape planter of at least 5 feet in width exclusive of any overhang permitted in Section 4.203.O: Parking Overhang.

O. ***Parking Overhang.*** Vehicles may overhang landscape areas or sidewalks by 30 inches provided that:

1. The overhang does not interfere with the base of any structure, raised planter, seating bench, fence, utility equipment, light pole or base, or landscaping.

2. The unobstructed width of the sidewalk, exclusive of the 30 inch overhang, is not less than 4 feet.

3. The allowable overhang does not reduce any landscape planter width below 5 feet.

4. No part of any parked vehicle extends beyond any property line.

P. ***Opposing Overhangs.*** Where parking spaces are on opposite sides of a landscape area or sidewalk or combination thereof, the landscape area or sidewalk shall be at least 9 feet in width. This provision does not apply to landscape diamond planter areas.

Q. ***Side Clearance.*** Each parking space located at the end of a row of spaces shall provide a 3 foot wide area clear of vertical obstructions more than 6 inches in height next to the side of the space.

R. ***Tandem Parking, Nonresidential.*** Tandem parking spaces shall only be approved for full-time valet or attended parking. Tandem parking spaces may be used to satisfy a portion of the parking requirement for nonresidential uses, subject to the approval of an Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes.

S. ***Pull-Through Parking Spaces.*** Single car pull-through spaces are prohibited.

T. ***Striping.*** All parked vehicles shall be located in delineated parking spaces. One or more 4-inch wide lines of white or other contrasting color paint shall delineate all nonresidential and multi-family parking spaces. Such lines shall be maintained to clearly identify each space

U. ***Pavement Edge Protection.*** All permanent uses other than individual single family or duplex residential lots shall provide a 6-inch, poured-in-place concrete curb or other approved material for all parking areas and drive aisles abutting landscaped areas. Alternative pavement edge protection systems may be approved in conjunction with bioswales.

V. ***Commercial Vehicle Parking in Residential Districts.***

1. One commercial vehicle with a manufacturer's gross vehicle weight rating of more than 10,000 pounds may be parked on residential lots or parcels 1 acre or larger, subject to the following conditions:

    a. The vehicle shall be parked behind the rear wall plane of the main building on the lot or parcel.

    b. The vehicle shall be parked no closer than 10 feet from any property line.

    c. The vehicle shall be screened from view from streets and abutting property by a solid fence or landscaping.

2. One commercial vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or less may be parked on residential lots or parcels less than 1 acre, subject to the following conditions:

    a. The vehicle shall not be parked in the required front or street side setback area; and

    b. The vehicle shall be screened from view from streets and abutting property by a solid fence or landscaping.

W. ***Additional Parking on Single Family Residential Lots.***

1. One additional uncovered parking space may be constructed next to the driveway or adjacent to a garage or carport. On corner lots, the parking space shall not be constructed in the street side setback area.

2. The additional parking space permitted by this section shall comply with the following standards:

    a. The parking space shall have a hard surface of asphalt, concrete, or pavers.

    b. The surface may consist of 2 parallel concrete or cement strips. The area between such parallel strips shall be landscaped with vegetative ground cover.

    c. The additional parking space shall be large enough so that no parked vehicle will obstruct or encroach on a sidewalk.

    d. Access to the parking space shall be via a curb cut, rolled curb, or driveway.

3. No motor vehicle, recreational vehicle or trailer shall be parked in the front or side setback visible from the street, except on a driveway or additional parking space permitted in this section.

X. ***Parking in Non-Residential Muli-Tenant Buildings.*** Buildings designed for and containing more than one tenant shall be required to provide no more parking spaces than what is provided on-site regardless of the tenant mix, except for uses requiring approval of a Use Permit. Increases in building area shall be accompanied by an increase in parking required by this Chapter for the first occupant of the new building area.

Y. ***Temporary Storage of Snow Removal and Salt Spreading Equipment, and Salt and De-icing Agents in Parking Areas.*** Storage of snow removal and salt spreading equipment, salt, and other de-icing agents shall be subject to the following requirements:

1. All Districts. Storage of such materials shall be subject to the provisions of Section 4.203.J Temporary Use of Parking Area and the following restrictions. In all instances except in the Limited Industrial and General Industrial Districts and in buildings designed specifically for such storage, storage of materials is limited to use at the immediate site for that season and must be removed by April 15th . No salt or De-icing agents shall be stored in a location proximate to a storm sewer inlet so as to allow run-off from the stored material to enter the City storm system.

2. Residential Districts.

   a. Single Family Districts. No snow removal equipment, salt or other de-icing agents shall be stored in a driveway, any parking lot, or open to the sky hard surface, or in a temporary covered structure in any single-family residential zoning district.

   b. Multi-Family Residential Districts. Storage of snow removal equipment and salt and other de-icing agents shall be limited to the inside of buildings designed for such storage, or in parking areas no closer to streets than the mid-point between the building and the property line adjacent to streets.

3. Commercial, DMU, MU, PFI and POS Districts. Storage of snow removal equipment and salt and other de-icing agents shall be limited to the inside of buildings designed for such storage, or in parking areas no closer to streets than the mid-point between the building and the property line adjacent to streets.

4. Employment Districts. Snow removal equipment and salt or deicing agents shall not be stored in a required front or corner side setback area.

4.204 Number of Parking Spaces Required

A. ***Minimum Number of Parking Spaces Required.*** This Section sets forth parking space requirements for all uses except uses in the DMU Downtown Mixed Use Zoning District, which are subject to 4.203.I of this Section. Unless otherwise approved pursuant to Subsections 4.203.H: Deferred Parking for Unique Uses or 4.203.I: Off-Site Parking in the DMU Downtown Mixed Use Zoning District, the minimum required number of parking spaces shall be located on the same building site as the use or building they serve, unless cross-access and cross-parking agreements are in effect. Parking on public or private streets shall not be used to satisfy the off-street parking requirement.

B. ***Maximum Number of Parking Spaces Required.*** Parking in excess of the minimum number of off-street parking spaces required may be provided on any property, subject to its design conforming to requirements of this Chapter. In all Zoning Districts, except the LI Light Industrial District, GI General Industrial District, Single-Family and the R2 Two Family Residence districts, no use except Conference Centers, and Hotels and Commercial Lodging shall provide parking in excess of 125% of the required minimum parking specified in Table 4.204. Conditional Use Permit approval shall be required in any instance where a parking field is proposed to exceed this requirement outside of these exceptions.

This Section sets forth parking space requirements for all uses except uses in the Downtown Mixed Use Zoning District. Unless otherwise approved pursuant to Subsections 4.203.H: Deferred Parking for Unique Uses or 4.203.I: Off-Site Parking in the Downtown Mixed Use Zoning District, required parking spaces shall be located on the same building site as the use or building they serve, unless cross-access and cross-parking agreements are in effect. Parking on public or private streets shall not be used to satisfy the off-street parking requirement.

Table 4.204: Off-Street Parking Requirements

Use Classification	*Requirement (Gross Floor Area)*
Agritainment	Determined by Planning and Zoning Officer
Ambulance Services	1 space per 250 sq. ft.
Animal Services	
Animal Grooming	1 space per 250 sq. ft.
Animal Shelter	1 space per 250 sq. ft.
Feed and Tack Sales	1 space per 350 sq. ft.
Kennel	1 space per 600 sq. ft.
Large Animal Hospitals	1 space per 300 sq. ft.
Small Animal Clinics	1 space per 250 sq. ft.
Automated Teller Machine	None required.
Automated Teller Machine, Remote	2 spaces per machine
Banks and Other Financial Institutions	1 space per 300 sq. ft.
Banquet Facility	1 space per 125 sq. ft. plus attended parking when demand exceeds supply
Bed and Breakfast Homes	2 spaces; plus 1 space per guest room
Building Maintenance Services	1 space per 300 sq. ft.

Table 4.204: Off-Street Parking Requirements	
Use Classification	***Requirement (Gross Floor Area)***
Building Material and Home Improvement Sales and Service, Retail	1 space per 250 sq. ft. for the first 75,000 sq. ft. 1 space for every 600 sq. ft. above 75,000 sq. ft.
Building Material and Home Improvement Sales and Service, Wholesale	1 space per 800 sq. ft.
Business Services	1 space per 250 sq. ft.
Call Center	1 space per 150 sq. ft.
Cannabis Business Establishments	
Cannabis Cultivation Center	1 space per 1,000 sq. ft.
Cannabis Dispensary, Medical	1 space per 300 sq. ft., plus additional parking required as determined through the Conditional Use process
Cannabis Dispensary, Recreational	1 space per 250 sq. ft., plus additional parking required as determined through the Conditional Use process
Cannabis Craft Grower	1 space per 250 sq ft of Cannabis dispensing area 1 space per 1,000 sq ft of growing or warehouse area 1 space per 500 sq ft of production or processing area. Plus, additional parking required as determined through the Conditional Use process.
Cannabis Cultivation Center	1 space per 1,000 sq ft of growing or warehouse area 1 space per 500 sq ft of production or processing area. Plus, additional parking required as determined through the Conditional Use process.
Cannabis Infuser Organization (Infuser)	1 space per 1,000 sq ft of warehouse area 1 space per 500 sq ft of production or processing area. Plus, additional parking required as determined through the Conditional Use process.
Cannabis Processing Organization (Processor)	1 space per 1,000 sq ft of warehouse area 1 space per 500 sq ft of production or processing area. Plus, additional parking required as determined through the Conditional Use process.
Cannabis Transportation Organization (Transporter)	1 space per 1,000 sq ft of warehouse area Plus, additional parking required as determined through the Conditional Use process.
Cemetery	None required
Cemetery, Pet	None required
Clubs and Lodges	1 space per 200 sq. ft.
Colleges, Public Or Private	1 space per 200 sq. ft. of classroom and office area
Congregate Living Facility	.5 spaces per unit
Contractor's Yard	1 space per 250 sq. ft. of office area
Conference Center	Determined by Planning and Zoning Officer
Crematorium	1 space per 300 sq. ft.
Crop and Animal Raising, Commercial	None required
Crop Raising, Non-Commercial	None required
Cultural Institutions	1 space per 200 sq. ft.
Day Care Centers	1 space per 300 sq. ft.
Day Care Homes	No additional spaces required
Day Care, Residential	No additional spaces required
Dry Cleaning and Laundry Outlet	1 space per 250 sq. ft.
Dry Cleaning and Laundry Central Plant	1 space per 300 sq. ft.
Eating and Drinking Establishments	
Bars/Night Clubs/Lounges/Dance Halls	1 space per 100 sq. ft.
Restaurants, Full Service	1 space per 100 sq. ft.
Restaurants, Limited Service	1 space per 100 sq. ft.
Entertainment and Recreation, Indoor	1 space per 150 sq. ft. of indoor area
Entertainment and Recreation, Outdoor	2 spaces per court; 45 spaces per soccer field; 35 spaces per baseball or softball field;

Table 4.204: Off-Street Parking Requirements

Use Classification	*Requirement (Gross Floor Area)*
	1 space per batting cage; 2 spaces per miniature golf hole
Farm Stand	1 space per 50 sq. ft. of sales area
Farmers' Market	1 space per 50 sq. ft. of sales area
Food Preparation	
Large-Scale	1 space per 300 sq. ft.
Small-Scale	1 space per 250 sq. ft.
Funeral and Undertaking Services	1 space per 150 sq. ft.
Garden Supply Stores and Plant Nurseries	1 space per 400 sq. ft. of sales and display area
Golf Course	5 spaces per hole
Government Offices and Facilities	1 space per 200 sq. ft.
Group Homes for the Handicapped	No additional spaces required
Haunted House	Determined by the Planning and Zoning Officer
Health Care Facilities	
Hospital	2 spaces per bed
Urgent Care Facility	1 space per 100 sq. ft.
Medical Offices and Clinics	1 space per 200 sq. ft.
Home Occupation	No additional parking required.
Homeowners Association Facilities	1 space per 250 sq. ft.
Hotels and Commercial Lodging	1.1 spaces per guest room, suite or unit; public eating and drinking establishments calculated separately
Instructional Services, Specialized	1 per 200 sq. ft. of instructional area
Laboratories, Commercial	1 space per 150 sq. ft.
Laundry Services	1 space per 250 sq. ft.
Maintenance and Repair Services	1 space per 300 sq. ft.
Manufacturing and Assembly	
Artisan	1 space per 500 sq. ft.
Light	1 space per 500 sq. ft.
General	1 space per 500 sq. ft.
Heavy	1 space per 1,000 sq. ft.
Mining and Quarrying	1 space per 250 sq. ft. of office area
Nursing Home	0.5 spaces per bed
Offices, General	1 space per 250 sq. ft.
Pawn Shop	1 space per 250 sq. ft.
Personal Services	1 space per 200 sq. ft.
Public Safety Facilities	1 space per 250 sq. ft.
Recreational Vehicle Park	1 space per 100 sq. ft. of office area, plus 2 spaces per permanent residential unit
Religious Assembly	1 space per 100 sq. ft. of assembly area, plus 1 space per 200 sq. ft. of other indoor area
Research and Development	1 space per 250 sq. ft.
Residential, Permanent	
Single Family	2 spaces per unit
Multi-Family	1 space per studio unit 1.5 spaces per 1-bedroom; 2 spaces per 2 or more bedroom units;
Secondary Dwelling	1 additional space
Retail Sales, Convenience	1 space per 250 sq. ft.
Retail Sales, Furniture	1 space per 500 sq. ft.
Retail Sales, General	1 space per 250 sq. ft.
Sexually-Oriented Business	1 space per 250 sq. ft.
Schools, Public or Private	 Elementary: 2 spaces per classroom Middle: 2 spaces per classroom High: 7 spaces per classroom
Shelter Care Facility	1 space per 500 sq. ft.

Table 4.204: Off-Street Parking Requirements	
Use Classification	***Requirement (Gross Floor Area)***
Shelter Care Facility, Homeless	1 space per 500 sq. ft.
Stables, Commercial	1 space per 2 horse stalls
Storage, Personal Property	
Indoor	4 spaces plus 2 covered spaces per dwelling unit
Outdoor	2 covered spaces per dwelling unit
Swap Meet and Auction, Indoor	1 space per 200 sq. ft.
Swap Meet and Auction, Outdoor	1 space per 200 sq. ft. of sales area
Teen Nightclub	1 space per 200 sq. ft.
Transportation Passenger Terminals	Determined by Planning and Zoning Officer
Utilities	
Facilities	1 space per 250 sq. ft. of office area
Service Yards	1 space per 250 sq. ft. of office area
Well Site	None required
Vehicle Equipment Sales, Leasing and Services	
Car Wash, Automated or Self-Service	2 spaces minimum
Car Wash, Full Service	10 spaces minimum
Commercial Vehicle/Equipment Sales and Rental; New and Used	1 space per 250 square feet of indoor area
Fueling Facility	1 space per 125 sq. ft. of convenience retail sales, plus 2 spaces per pump
Fueling Facility, Alternative	1 space per fueling station
Fueling Facility, Fleet	None required
Motor Vehicle Sales and Leasing, New and Used	1 space per 250 sq. ft. of interior office and display space; plus 1 space per 3 service bays
Motor Vehicle Sales and Leasing, New and Used – Internet Based	1 space per 250 sq. ft. of general office areas plus 1 per 1,000 square feet of vehicle display and storage space, when approved by a Conditional Use
Non-Commercial Vehicle Rental	1 space per 100 sq. ft.
Vehicle Services, Light and Heavy	3 spaces per service bay plus 1 space per 100 sq. ft. of office and sales area
Warehousing	
Freight/Truck Terminal and Warehouse	1 space per 1000 sq. ft. plus 1 space per 250 sq. ft. office area
Petroleum and Gas Storage	1 space per 250 sq. ft. of office area
Salvage or Junkyards	1 space per 200 sq. ft. of office area
Information	1 space per 250 sq. ft. of office and technician workspace plus 1 space per 5,000 sq. ft. of area to store or distribute information
Waste Management	
Hazardous Waste Collection and Transfer Facility	1 space per 250 sq. ft. of office area
Hazardous Waste Disposal Facility	1 space per 250 sq. ft. of office area
Non-Hazardous Waste Collection and Transfer Facility	1 space per 250 sq. ft. of office area
Non-Hazardous Waste Disposal Facility	1 space per 250 sq. ft. of office area
Non-Hazardous Material Recycling Collection Facility	
Large Scale	1 space per 250 sq. ft. of office area
Small Scale	None required
Wireless Communication Facilities	None required

4.205 Dimensions for Parking Spaces and Aisles

A. ***General.*** This section sets forth dimensional requirements for open parking spaces, covered parking spaces, and spaces in parking structures.

B. ***Open Parking Spaces.*** The minimum dimensions of open parking spaces and parking aisles are set forth in Tables 4.205.A: Parking Space and Aisle Dimensions

for Parking Angles Less Than 90 Degrees and 4.205.B: Parking Space and Aisle Dimensions for Perpendicular Parking Angles. For high turnover uses and uses utilizing shopping carts, space width shall be increased by 6 inches for 50 percent of the required parking spaces closest to the building entrances.

C. ***Unenclosed Covered Parking Spaces.*** Each unenclosed covered parking space shall measure at least 9 feet in width and 19 feet in depth of unobstructed area. These measurements shall not include the exterior walls or supports of the cover structure. An unenclosed covered parking space shall have an unobstructed back-up area of not less than 25 feet.

D. ***Spaces in Garages and Parking Structures.*** Each parking space in a garage and a parking structure shall measure at least 9 feet in width and 18 feet in depth. Parking structures shall have an unobstructed back-up area of not less than 24 feet.

E. ***Vertical Clearance for Unenclosed Covered Spaces and Parking Structures.*** Covered parking and parking structures shall have a minimum vertical clearance of 8 feet.

F. ***Measurement.*** The length of a parking stall is measured along the length of the side stripe defining the space. The width is measured at 90 degrees from the center of the side stripes or face of curb defining the space.

G. ***Angle Parking Less Than 90 Degrees.*** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts.

Table 4.205.A: Parking Space and Aisle Dimensions for Parking Angles Less Than 90 Degrees (feet)

Space Angle	*Aisle Width*	*Space Width*	*Space Length*
One-way			
0 degrees	12.0	10.0	22.0
30 degrees	15.0	9.0	19.0
45 degrees	16.0	9.0	19.0
60 degrees	17.0	9.0	19.0
Two Way			
0 degrees	20.0	10.0	22.0
30 degrees	20.0	9.0	19.0
45 degrees	22.0	9.0	19.0
60 degrees	24.0	9.0	19.0

H. ***Perpendicular Parking.*** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts.

Table 4.205.B: Parking Space and Aisle Dimensions for Perpendicular Parking Angles (feet)			
Space Angle	*Aisle Width*	*Space Width*	*Space Length*
90 degrees	25.0	9.0	19.0
90 degrees	24.0	9.5	19.0

I. ***Angle Parking Less Than 90 Degrees in Parking Structures.*** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts.

Table 4.205.C: Parking Space and One-way Aisle Dimensions for Parking Angles Less Than 90 Degrees within Parking Structures (feet)			
Space Angle	*Aisle Width*	*Space Width*	*Space Length*
45 degrees	13.0	9.0	18.0
60 degrees	15.0	9.0	19.0

J. ***Truck and Semi-Trailer Dimensions.*** The following dimensions shall apply to all uses.

Table 4.205.D: Parking Space and Aisle Dimensions for Truck and Semi-Trailers(feet)			
Space Designation	*Aisle Width*	*Space Width*	*Space Length*
Truck Tractor	70.0	12.0	45.0
Semi-Trailer	70.0	12.0	55.0
Truck & Semi-Trailer	70.0	12.0	70.0

4.206 Parking Access

A. ***Nonresidential and Multi-Family Uses.***

1. *Ingress and Egress***.** Each parking area shall have a driveway or driveways providing ingress to and egress from a public street. Parking in the Downtown Mixed Use district may be directly accessed from an alley.

2. *Parking Area Egress Aisles*. Parking area egress aisles shall be perpendicular to the public street for a distance of at least 20 feet behind the sidewalk or pedestrian crossing. In the DMU District, an appropriate separation will be determined with Design Review.

B. ***Residential Uses.***

1. Where a residential garage or carport is directly accessible from a street, it shall have a paved driveway not less than 20 feet in length, measured from the right-of-way. For private streets, the driveway length shall be measured from the back of sidewalk. If no sidewalk exists, the driveway length shall be measured from the back of curb or edge of pavement. This provision does not apply to side entry garages.

2. Where a residential garage or carport is directly accessible from an alley, it shall have a minimum paved driveway apron not less than 3 feet in length.

4.207 Driveway Widths

A. ***Single, Two and Attached Multi Family Residential Driveways accessing Individual Properties.*** A driveway is required for all vehicle accesses to individual residential properties, units, and garages. The minimum driveway width is 10 feet. The maximum width of a driveway for a:

1. Single car garage or for a driveway that does not access a garage shall be 14 feet.

2. Two or more car garage shall be 18 feet at the property line and shall not exceed the width of the garage door openings by more than 6 feet.

B. ***Other Driveways.***

1. Non-industrially Zoned Properties. Single lane driveways shall be a minimum of 14 feet and a maximum of 18 feet wide. Driveways shall be a minimum of 14 feet and a maximum of 18 feet wide. Driveways having more than one lane shall be a minimum of 12 feet wide per lane, and cannot exceed 40 feet wide, inclusive of barrier islands.

2. Industrially Zoned Properties. Driveways shall not exceed 40 feet in width, unless it is demonstrated through Administrative Design Review that additional width is needed to provide safe and efficient vehicle maneuvering space to accommodate existing conditions.

4.208 Surfacing

Except as otherwise provided in this section, parking areas and spaces, access points, aisles, driveways, and travel ways shall be paved with masonry, asphalt, or concrete. All required pavement marking shall remain visible.

A. ***Single Family Residential Driveways.*** Single Family Residential driveways shall be improved with a concrete, asphalt or masonry surface. Driveways shall be setback a minimum of 1 foot from the property line, unless the driveway is shared by agreement between adjoining property owners.

B. ***Non-Residential Driveways***. that portion of a driveway within 100 feet of the right-of-way or private street, shall be improved with a concrete, asphalt, or masonry

surface. The remainder of the driveway shall be constructed of concrete, masonry, asphalt, compacted gravel, or other approved dust free surface.

C. ***Alternative Paving Surface.*** The Community Development Director may approve an alternative surface material for facilities that have limited or infrequent use.

4.209 Drive-Through and Take-Out Facilities

A. ***Drive-Through Facilities.***

1. *General***.** Drive-through facilities shall provide safe, unimpeded movement of vehicles at street access points, in travel aisles and parking areas. Drive-through aisles shall be a minimum of 20 feet in width to provide bypass capability. Drive-through aisles shall have a minimum interior turning radius of 15 feet and an exterior turning radius of 30 feet.

2. *Screening*. Drive-through aisles shall be screened from view from public and private streets, areas accessible to the general public, and from areas shown for residential use in the Comprehensive Plan by:

   a. A decorative masonry wall a minimum of 36 inches in height measured from the grade of the aisle; or

   b. A continuous evergreen landscape planter a minimum of 4 feet in width; or

   c. A combination of a masonry wall and landscape planter.

3. *Stacking*. Vehicular stacking areas shall be provided in accordance with Table 4.209: Drive-Through Facility Stacking Space Requirements.

Table 4.209: Drive-Through Facility Stacking Space Requirements

Use Classification	*Stacking Space Requirement*
Banks and Other Financial Institutions	2 spaces per teller or ATM drive-through
Eating and Drinking Establishments *Restaurants, Limited Service*	 5 spaces
Retail Sales, General *Pharmacy*	 2 spaces per aisle
Vehicle Equipment Sales, Leasing and Services *Car Wash, Automated or Self-service* *Car Wash, Full Service*	 2 spaces per bay 8 spaces minimum
Fueling Facility	1 space on each end of each side of each fuel pump island (one-way facilities require 2 spaces on approach end of each island.)
Fueling Facility, Alternative	1 space on each end of each side of each fuel pump island (one-way facilities require 1 space on approach end of each island.)
Vehicle Services, Heavy	1 space per service bay
Vehicle Services, Light	1 space per service bay

B. ***Take-Out Facilities.*** Eating and Drinking Establishments providing a designated take-out counter, door or window shall identify one or more parking spaces adjacent to the take-out entrance for exclusive use by take-out customers.

4.210 Passenger Loading Areas

A. ***General.*** Passenger loading areas shall be provided adjacent to the principal facility entrance or entrances and shall consist of vehicle turnout lanes located outside of access aisles. Passenger loading areas shall be identified exclusively for this use.

B. ***Loading Area Requirements.*** Passenger loading shall be provided in accordance with Table 4.210: Passenger Loading Area Requirements.

Table 4.210: Passenger Loading Area Requirements

Use Classification	*Requirement*
Banquet Facility	2 spaces
Clubs and Lodges	1 space
Congregate Living Facility	1 space
Conference Center	2 spaces
Cultural Institutions	1 space
Day Care Centers	1 space
Entertainment and Recreation, Indoor	3 spaces per skating rink or playing field 2 spaces per swimming pool 1 space per performing arts facility 1 space per 5 theater screens
Entertainment and Recreation, Outdoor (cont'd.) Entertainment and Recreation, Outdoor	2 spaces per swimming pool 1 space per sports field or court 3 spaces per amphitheatre
Government Offices and Facilities	1 space
Health Care Facilities	
Hospitals	2 spaces
Urgent Care Facility	1 space
Medical Offices and Clinics (greater than 5,000 sq. ft.)	1 space per 10,000 sq. ft.
Hotels and Commercial Lodging	2 spaces
Nursing Home	1 space
Religious Assembly	1 space per 10,000 sq. ft.
Schools, Public or Private	1 space per 200 students, based on design capacity.
[1]A passenger loading space is the area a vehicle occupies while loading or unloading passengers. A passenger loading space shall be a minimum of 12 feet in width and 20 feet in length.	

4.211 Screening, Landscaping and Lighting

A. ***Screening.*** Parking areas, automotive fuel pump islands, and parking access aisles parallel to and within 60 feet of rights-of-way shall be screened from view from those rights-of-way and public parks by landscaping or landscape berms, fences or screen walls.

1. *Landscape Screening*

a. Height. Landscaping shall be planted and maintained as a continuous landscape hedge not less than 3 feet or more than 4 feet in height, measured from finish grade of the area to be screened.

b. Location. The required landscape screening shall not be located in public rights-of-way.

c. Clearance. The landscape screening shall be set back a minimum of 2 feet and a maximum of 6 feet from the perimeter of any parking space, driveway, or any access aisle.

d. Sight Distance Triangle. Ground covers and shrubs planted within sight distance triangles shall not exceed a height of 24 inches at maturity.

2. *Berms*

a. Height. Berms shall be not less than 3 feet or more than 4 feet, measured from finish grade of the area to be screened.

b. Location. Berms shall not be located in public rights-of-way, or on top of any retaining walls.

c. Clearance. The toe of the berm shall be set back a minimum of 2 feet and a maximum of 6 feet from the perimeter of parking space, driveway, sidewalk or any access aisle.

d. Slope. The maximum slope of the berm shall not exceed 4:1.

3. *Parking Screen Walls*

a. Height. Walls shall be not less than 3 feet or more than 4 feet, measured from finish grade of the parking lot.

b. Location. Parking screen walls shall not be located in public rights-of-way, or on top of any retaining walls.

c. Alignment. Walls shall be horizontally staggered a minimum of 1 foot for every 50 linear feet.

d. Clearance. Walls shall be set back a minimum of 2 feet and a maximum of 6 feet from the perimeter of any parking space, driveway, or any access aisle, as measured from the back of curb.

e. Materials and Finish. Walls shall be constructed of decorative block, brick, stone, or similar materials and finished on both the interior and the exterior elevations.

4. *Exceptions*

a. A new wall shall not be required where an existing wall complies with the requirements of this section.

b. A new wall shall not be required to screen outdoor display of new or used motor vehicles for sale or lease when such display area is identified on an approved Design Review site plan. Required customer, employee and visitor parking for these uses shall comply with the screening requirements of this section.

B. ***Parking Lot Landscaping and Lighting.***

1. *Shade Trees*

a. Shade trees shall be planted in parking lot landscape planters at a ratio of 1 tree for every 10 parking spaces. Trees shall be located throughout the parking lot to maximize the shading effect on parking spaces and to reduce summer solar heat gain. These trees are exclusive of trees planted around the perimeter of the parking lot.

b. The landscape planter, other than a landscape diamond planter, for any shade tree, shall have a minimum area of 160 square feet, and a minimum interior width of 5 feet.

c. Landscape diamond planters shall have a minimum area of 36 square feet, and shall not contain required shade trees.

d. The minimum size of parking lot trees shall be a height of 6 feet and a minimum of a 2-1/2 inch single trunk caliper measurement, measured 4 feet above grade.

2. *Interior Landscaping*

a. A minimum of 10 percent of the interior of all parking lots shall be landscaped, except in LI Light Industrial and GI General Industrial districts where the rate shall be 6.5 percent.

b. Required interior landscape planters shall be distributed throughout the parking lot at a rate of 1 for every 10 parking spaces, In LI Light Industrial and GI General Industrial districts the rate may be decreased up to a rate of 1 for every 15 parking spaces, provided the omitted planters are replaced by parking spaces designed as part of the property's stormwater best management practice design, this permeable paver area covers a minimum of two (2) parking spaces, and displaced trees required by Section 4.211.B.1.a are planted elsewhere on the property.

c. The end spaces in a row of parking spaces shall be separated from drive aisles by landscape islands or peninsulas that are a minimum width of 6 feet.

3. *Light Poles*. Parking lot light poles shall be located in a landscape planter or incorporated into a walkway or other pedestrian area. Concrete bases for light poles shall not exceed a height of 18 inches from finished grade.

4.212 Parking Space and Aisle Setbacks at Driveway Entrances

A. ***Parking Setbacks.*** Parking spaces directly served by a driveway accessed from a street shall be set back a minimum of 60 feet from the right-of-way. In the DMU District, an appropriate separation will be determined with Design Review.

B. ***Drive Aisle Setbacks.*** Parking drive aisles intersecting and crossing a major driveway accessed from a street shall be set back a minimum of 40 feet from the arterial right-of-way. In the DMU District, said aisles shall be set back a minimum of 20 feet from an arterial right of way.

4.213 Parking for Persons with Disabilities

Parking for persons with disabilities shall comply with City, State and Federal regulations.

4.214 Off-Street Loading

A. ***Deliveries and Distribution***.

1. *Applicability*. This Section applies to any use having a gross floor area of 10,000 square feet or more having the delivery or distribution of material or merchandise by trucks measuring 36 feet or more, including cab and trailer.

2. *Requirement*. At least 1 off-street loading space shall be provided. One additional loading space shall be provided for each additional 40,000 square feet of gross floor area over 10,000 square feet. Required loading spaces shall be maintained during the existence of the use.

3. *Standards.*

a. *Location*. Loading spaces shall not be located in any required landscape area, and shall not encroach on fire lanes, required parking spaces or parking circulation aisles.

b. *Dimensions*. Each required off-street loading space shall be not less than 12 feet wide and 45 feet long.

c. *Clear Height*. Each required off-street loading space shall have a minimum clear height of 14 feet.

d. *Screening*. Except in the Downtown Mixed Use District, each off-street loading space visible from a public street, within 200 feet of land designated for residential use on the Comprehensive Plan, or within 200 feet of land zoned for residential use shall be enclosed on three sides by a solid wall not less than 14 feet in height.

e. *Maneuvering*. Truck -maneuvering areas shall not encroach into required parking spaces or rights-of-way.

B. ***Customer Loading Zones***

1. *Applicability.* This Section applies to retail uses where customers take delivery of goods in non-commercial vehicles other than in designated parking spaces. Such uses are characterized by the sale of large or bulky items, and include home improvement, appliance, furniture, grocery, retail warehouse, and electronics stores.

2. *Requirement.* A customer loading zone shall be provided for any use listed in Section 4.214.B.1: Applicability and having a gross floor area of 20,000 square feet or more.

3. *Standards*.

a. *Location*. The loading zone shall be located within 50 feet of the primary exit or merchandise pick-up location.

b. Dimensions. A loading zone shall be a minimum width of 10 feet and a minimum length of 25 feet.

c. Clear Height. The loading zone shall have a minimum clear height of 14 feet.

4.215 Bicycle Parking

A. ***Requirement***

1. *Minimum Requirement, All Uses*. Uses of land that are provide at least 40 vehicle parking spaces shall provide bicycle parking spaces and facilities at a rate of 1 for every 25 required vehicle parking spaces.

2. *Minimum Requirement, Uses with less than 40 Vehicle Parking Spaces*. A minimum of 2 bicycle parking spaces shall be provided for all uses, with the following exceptions:

a. Residential uses with private garages.

b. Personal Property Storage, Indoor and Outdoor

c. Other uses as determined by the Community Development Director.

3. *Bicycle Parking Location.* Bicycle parking shall be distributed throughout a multi-building project. Common or shared bicycle parking facilities may be provided for attached or in-line uses. Individual uses on separate lots shall provide bicycle parking facilities in accordance with Section 4.215.A.1: Minimum Requirement, All Uses and Section 4.215.A.2: Minimum Requirement, Uses with less than 40 Vehicle Parking Spaces.

4. *Maximum Requirement*. In no event shall any use other than schools be required to provide more than 20 bicycle parking spaces.

B. ***Standards***

1. *Location*. Bicycle parking spaces shall be located on a paved surface within 50 feet of the primary building entrance. Bicycle parking spaces shall not encroach into pedestrian access areas.

2. *Dimensions*. Bicycle parking spaces shall measure 2 feet by 6 feet per space.

3. *Parking Facilities*. The bicycle parking facility shall be a stationary object permanently affixed to the ground or a structure to which the operator can lock the bicycle frame and wheels to the object. Bicycle lockers may be used.

4.216 Electric Charging Stations

A. ***Applicability to Parking Requirements.*** Electric Charging Station parking spaces shall contribute to the number of parking spaces provided for the purpose of Zoning Compliance.

B. ***Accessory Use***

1. Single Family Residential. Electric vehicle charging stations are permitted as an accessory use and requires a Building Permit. In no case shall equipment be installed on the front elevation of a single-family residential structure. Equipment shall be located within a garage or on the interior side or rear elevation of the structure.

2. Multi-Family Residential. Electric vehicle charging stations are permitted as an accessory use. When an electric vehicle charging station is not located within a garage, Administrative Design Review shall be required. A Building Permit is required for all electric vehicle charging stations.

3. All other Zoning Districts. Electric vehicle charging stations are permitted as an accessory use. Administrative Design Review and a Building Permit are required.

C. ***Number Required.*** No minimum number of charging station parking spaces is required.

D. ***Design Criteria***

1. *Signage*

   a. One (1) sign, located at the Charging Station and not to exceed 6 feet in height and 6 square feet in area, shall be posted designating a Charging Station for Electric Vehicles for charging purposes only.

   b. Limitations on hours of operation or charging shall be included if such limits are to be enforced.

   c. An additional sign of less than 6 feet in height and 6 square feet in area may be displayed to provide instructions for a charging station.

   d. Contact information shall be provided for reporting purposes when equipment is not functioning or other problems are encountered.

   e. Electronic Changeable Message Signs (ECM) are prohibited.

2. *Parking Space.* A parking space used for an electric vehicle charging station shall provide paint on pavement indicating that the space is to be used for electric vehicle charging only.

3. *Charging Station Equipment.* Charging Station equipment and connection devices shall be not less than 36 inches and no higher than 48 inches from the ground or paved surface where mounted. Equipment shall include a cord retraction device or location to hang permanent cords and connectors in a manner safely above the ground. Cords shall not be located in a manner to impede pedestrian travel or create a trip hazard.

4. *Equipment Protection.* Charging Station Equipment shall be located behind a barrier curb in a landscape area or sidewalk area. If located in a parking area sufficient barrier protection from vehicle movements shall be provided by bollards, subject to approval by the Public Works Director or his designee.

5. *Maintenance.* Charging Station equipment shall be maintained in a safe and operational manner.

6. *Access.* In no case shall equipment be placed in a manner to not provide 36" of clear sidewalk

4.217 Truck and Semi-Trailer Parking

A. ***Applicability.*** This section shall be applicable to any new parking associated with warehousing, manufacturing and assembly uses, when adjacent to a residentially zoned property and all parking lots designated as a Truck and Semi-Trailer Storage Lot by the Planning and Zoning Officer.

B. ***Number Required.*** No minimum number of Truck and Semi-Trailer Parking Spaces are required. Parking for any buildings on the property shall be determined by table 4.204 of the Zoning Code.

C. ***Design Criteria***

1. *Parking Dimensions.* All parking spaces shall be striped in conformance with Table 4.205.D *Pavement.* Concrete pavement, curbing, and gutter shall be installed on all truck and semi-trailer parking areas and drive aisles in accordance with Section 11-5-6 of the Subdivision Code or alternative design as approved by the City Engineer.

2. *Landscape Requirements*. All landscaping requirements shall be compliant with the regulations set forth in Chapter 4.3 Landscape Regulations and Section 4.211 Screening, Landscaping and Lighting. The following additional requirements shall be applied for truck and semi-trailer storage lots:

    a. One landscape island shall be provided per every 15 parking spaces in the same width and length of the provided parking spaces. A minimum of two (2) shade or ornamental trees shall be provided per landscape island.

    b. Perimeter landscaping along the exterior fence or wall shall be provided. The required plantings shall be a mix of evergreens, shade trees and ornamental trees to provide a minimum of 75% coverage.

        i. Shade and Ornamental Trees shall be provided at a minimum of one (1) tree per 25 feet of the truck and semi-trailer storage lot perimeter.

3. *Prohibited Parking.*

    a. Tandem parking of any vehicle or trailer in a Truck and Trailer Parking area is prohibited.

    b. Parking on an unimproved surface, such as gravel, is prohibited.

Chapter 4.4: Sign Regulations

Sections:

4.401 Purpose and Necessity
4.402 General Sign Regulations
4.403 Sign Criteria
4.404 Residential Zoning Districts and Uses
4.405 Nonresidential Uses in Residential Zoning Districts
4.406 Commercial and Other Use Districts
4.407 Office/Employment Zoning Districts
4.408 Parks and Open Space Zoning District
4.409 Removal of Signs on City Property or Right of Way
4.410 Removal of Hazardous Signs

4.401 Purpose and Necessity

A. ***Purpose.*** The purpose of the sign regulations is to:

1. Establish comprehensive provisions that will assure proper and efficient expression through visual communications involving signs compatible with the character and environment of the City.

2. Eliminate confusing, distracting, and unsafe signs.

3. Enhance the visual environment of the City of Batavia.

4. To be consistent with the Constitution of the United States of America and its First Amendment, and effective Supreme Court interpretations thereof.

B. ***Necessity.*** The regulation of signs in the City of Batavia is necessary and in the public interest for the following reasons:

1. To promote and aid the public and private sectors in the identification, location, and advertisement of goods and services.

2. To preserve the beauty and the unique character of the City of Batavia and to protect the City against visual blight.

3. To protect property values in the City of Batavia by assuring the compatibility of surrounding land uses.

4. To promote general safety and protect the public from damage or injury caused by, or partially attributed to, the distractions, hazards, and obstructions that result from dangerous, improperly designed or located signs.

5. To promote the general welfare and to provide a pleasing environmental setting and community appearance which are vital to the continued economic development of the City.

6. To make signs compatible with overall City design objectives that are important in attracting new residents and business to the community.

7. To make signs readable in a clear, unambiguous, and concise manner.

8. To ensure signs are compatible with the planned character of the adjacent architecture and neighborhoods, and to provide the essential identity of, and direction to facilities in the community.

9. To emphasize the City's historical character by promoting pedestrian oriented and appropriately scaled signage in the Downtown Mixed Use zoning district.

4.402 General Sign Regulations

A. ***Requirement for Permit.*** Except as provided in Section 4.402.D: Signs Not Requiring a Building Permit, it shall be unlawful for any person to construct, install, attach, place, paint, alter, relocate, or otherwise maintain any sign in the City without first obtaining a building permit in accordance with this Chapter.

B. ***Requirement of Conformity.*** Signs shall not be installed, placed, or maintained in the City except in conformance with this Chapter. If provisions of this Chapter are in conflict with any other City code, the more restrictive requirement(s) shall apply. Signs maintained contrary to the provisions of this Chapter may be abated as provided by law.

C. ***Requirement for Design Review.*** Except as specified below, all new permanent signs requiring a building permit shall receive Design Review approval.

1. Signs shall be approved concurrent with building and site improvements as part of the Design Review process.

2. New signs on properties with prior Design Review approval shall receive Administrative Design Review approval.

3. Any new sign proposed on a property that is not subject to Design Review shall receive Administrative Design Review approval.

4. Design Review shall not be required for permanent signs in historic districts or on landmark properties.

5. Design Review shall not be required for replacement sign faces.

D. ***Signs Not Requiring a Building Permit.***

1. One Building Identification Sign per building entrance, 6 square feet or less in area.

2. Legal notices, building or site identification signs, directional and traffic control signs erected or required by a governmental entity.

3. Permanent parking signs 6 square feet or less in area and a maximum of 6 feet in height.

4. Permanent Informational Signs 6 square feet or less in area.

5. Nameplates, not exceeding two square feet.

6. Menu Signs 6 square feet or less in area, and a minimum of 4 feet in height, not including Drive-Through Signs, displayed within 10 feet of the business entry.

7. Required Address Signs in conformance with Section 4.402.I.

8. Suspended Signs 6 square feet or less in area in commercial districts.

9. Umbrella Signs

10. Window Signs.

11. Temporary Signs and Limited Duration Signs in compliance with Section 4.412: Temporary Signs and Limited Duration Signs.

E. ***Maintenance of Conforming Signs.*** Maintenance of conforming signs shall not require a permit. Sign maintenance is the replacement or repair of a part or portion of a sign required by ordinary wear, tear, or damage with like material, color, and design. Maintenance of conforming signs does not include changing the location, color, size, design, or style of signs.

F. ***Sign Panel Replacement.*** Any business no longer in operation shall have its sign panel removed and replaced with either a blank, opaque panel having a color similar to another sign panel background, or with another sign as permitted by this Title. Replacement sign panels shall require issuance of a building permit, except for a blank panel as specified herein.

G. ***Flagpoles***

1. *Height.* Flagpoles shall not exceed 1.5 times the height of the tallest building on the lot that it is located, but in no event shall a flagpole exceed a height of 35 feet, except when located in the PFI district, a maximum height of 45 feet is allowed.

2. A building permit shall be required for flagpoles.

H. ***Interim Business Identification Banners***

1. A banner identifying a business is permitted from the date a business occupies the premise until the date of installation of permanent signage, provided the applicant has pending design review and building permit applications for permanent signage and is diligently pursuing the manufacture and installation of such signage.

2. Interim Business Identification Banners shall be placed upon the building wall of the applicant's, tenants or user space.

3. Interim Business Identification Banners shall not exceed the sign area permitted for permanent wall signs for the use, and shall not be displayed for a period exceeding 90 days.

I. ***Address Signs***

1. Each dwelling unit shall be clearly identified by a street or unit number.

2. Each nonresidential building or group of buildings shall be identified by a street number, visible from adjacent streets, not to exceed 6 square feet in area.

3. Required address signage is not counted as a part of the total sign area permitted for a building or group of buildings.

J. ***Fueling Facility Signs***

1. *Number.* Fueling facilities are permitted 1 Fueling Facility Sign in lieu of monument signage otherwise permitted in Section 4.407.B.2 of this code.

2. *Height.* Signs shall be no greater than 8 feet in height.

3. *Area.* The sign area shall not exceed 60 square feet.

4. *Setback.* Signs shall be set back a minimum of 10 feet from the right-of-way.

5. *Changeable Message Signs.* No more than one-half (1/2) of the sign area may be a Changeable Message Sign subject to Design Review approval.

K. ***Time and Temperature Displays***

1. *Location.* Time and Temperature Displays may be incorporated into allowed sign area in non-residential districts.

2. *Alternating Displays.* Displays shall not alternate between time and temperature more frequently than once every 10 seconds.

3. *Time Displays.* Time displays shall not change more frequently than once every minute.

L. ***Prohibited Signs.*** All signs not expressly permitted by this Chapter shall be prohibited, including but not limited to:

1. Vehicle Signs advertising a business or other commercial activity, when the motor vehicle is not actively being used in the conduct of the business or the activity advertised, and when parked on or adjacent to a public street or other public property and not in immediate proximity to an entrance to the building housing the business advertised.

2. Flashing, blinking, reflective, or animated signs, including signs with an intermittent or varying color or intensity of artificial illumination, whether deliberate or as a consequence of a defect in the sign or the illumination source. *Changeable Message Signs, Fuel Facility Signs* and *Time and Temperature Displays* are not considered flashing or animated signs.

3. Electronic *Changeable Message Signs* are prohibited for use on Wall Signs and Tower Signs. In historic districts and on landmarked properties, all Electronic *Changeable Message Signs*, other than *Fuel Facility Signs* and *Menu Signs* are prohibited."

4. Moving signs, including the sign body or any segment thereof. Flags mounted on a permanent flagpole are not moving signs.

5. Signs that, by their shape, color, design, and placement, are likely to be confused with a traffic control sign or device.

6. Signs that advertise activities illegal under Federal, State, or local laws, rules, or regulations, except for signs advertising the sale of medical cannabis that are otherwise in accordance with this Title.

7. Signs installed, attached, or painted on fences, utility facilities, rocks, trees, or natural features.

8. Signs installed, attached, or painted on any object within the right-of-way, except as otherwise permitted by this Chapter.

9. Wall Signs that are painted directly on the wall or surface of a building or structure, except as otherwise permitted by this Chapter.

10. Portable Signs, except as otherwise permitted by this Chapter.

11. Roof Signs, except as otherwise permitted by this Chapter.

12. Billboards.

13 Wall-mounted Cabinet (Can) Signs and logos more than 6 square feet in area, unless:

   a. Such sign is approved by Design Review, and

   b. Such sign has a:

      (1) Cabinet that is shaped to reflect the shape of the image printed on the sign face; or

      (2) Molded sign face, with embossed copy or sign copy or sign copy in relief; or

      (3) Nationally registered trademark with colored sign copy on a colored background.

14. Pole Signs, except as otherwise permitted by this Chapter.

15. Freestanding signs on properties having permitted, non-industrial uses in Industrial zoning districts

16. Projecting Signs, except as otherwise permitted by this Chapter.

17. Attention getting devices including, searchlights, pennants, banners, propellers, spinners, streamers, balloons and similar devices, and festoon lights, including any lighting along one or more edge of a window or window pane except when festoon lights are used for an Outdoor Dining area, unless otherwise permitted by this Chapter.

18. Signs advertising a business no longer conducted or a product no longer offered on the premises where the sign is located.

19. Signs that obstruct visibility of any traffic control device or create a hazard to vehicular or pedestrian travel.

20. Awning and Canopy Signs unless otherwise permitted by this Chapter.

21. Off-Site Signage, except as otherwise permitted by this Chapter.

22. Signage on Accessory Structures is prohibited, except as otherwise permitted by this Chapter.

23. Residential Entry Identification Signs, except as otherwise permitted by this Chapter.

24. Temporary Signs or Limited Durations affixed to a Free-standing Sign.

25. Signs displayed in, on or within 6 feet behind a window located above the first floor in the O, SBR, LI and GI districts

M. ***Nonconforming Signs***

1. Nonconforming signs may be repaired, subject to this Section.

2. If a nonconforming sign is damaged by any cause, including lack of maintenance, by more than 50 percent of its reproduction value, or is removed by any means, including "an act of God," then such sign shall be rebuilt, repaired, or replaced only in conformance with the provisions of this Chapter and applicable provisions of the Building Code.

3. If a nonconforming sign that no longer advertises a current use remains, with or without copy, for a period of 90 days or more, it shall be presumed abandoned, and shall be removed after notice to the property owner, unless the property owner establishes facts sufficient to rebut the presumption of abandonment.

4. If a property or development is expanded or modified and such expansion or modification includes new signage, all nonconforming signs shall be removed or rebuilt to comply with the provisions of this Chapter.

5. Sign faces may be replaced on nonconforming signs.

6. Any change, other than sign face replacement, to a property that adds to or changes existing signage shall be prohibited until all nonconforming signs are removed or rebuilt in conformance with of this Chapter.

N. ***Abandoned Signs.*** Sign copy on abandoned signs shall be removed within 30 days of abandonment. The area where copy has been removed shall be restored in a manner approved by the Planning and Zoning Officer.

O. ***No Discrimination Against Non-Commercial Signs.*** Any permitted sign may contain a non-commercial message.

P. ***Sign Height and Area***: Refer to Glossary of General Terms.

Q. ***Hours of Illumination.*** Unless otherwise allowed by Ordinance or this Code, illuminated signs shall be turned off between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. The sign may be illuminated during these hours only while the business is open.

4.403 Sign Criteria

A. ***Design of Permanent Signs***. All permanent signs shall be compatible with the design of buildings and sites, reflecting the architectural style, building materials, textures, colors, and landscape elements of the project.

B. ***Placement of Signs***

1. Except as provided in the Downtown Mixed Use zoning district, permanent signs shall not project into or over the public right-of-way.

2. Signs or support structures shall not be located in such a manner that obstructs any door, fire escape, stairway, or any opening, exit, walkway, utility access or Fire Department connection.

3. The lowest portion of any sign that extends over an area intended for pedestrian use shall not be less than 7 feet above finished grade. The lowest portion of any sign that extends over an area intended for vehicular use shall not be less than 14 feet above the finished grade.

4. No sign shall be placed on any property without written consent of the owner or owner’s authorized agent.

5. Notwithstanding other provisions of this Chapter, no sign shall create a hazard to the safe movement of traffic by obstructing the vision of motorists, as determined by the City Engineer.

C. ***Maintenance of Signs.*** Any sign or component of a sign that is in a damaged or deteriorated condition and constitutes a danger or hazard to public safety, or a visual blight, shall be promptly repaired or replaced. Surface materials and components shall be kept free of chipping, peeling, fading, cracks, holes, buckles, warps, splinters, or rusting visible from an adjacent property or street. Illuminated signs shall be maintained in good operating condition including prompt removal and replacement of all defective bulbs, light emitting diodes, fluorescent tubes, neon or other inert gas light segments, dead pixels, damaged or deteriorated electrical wiring, and malfunctioning control devices and related circuitry.

D. ***Lighting.*** Exposed incandescent, fluorescent, metal halide, high- or low-pressure sodium bulbs, or mercury vapor light sources shall not be used as a source of sign illumination. All exterior light sources shall be shielded to prevent illumination trespass beyond the sign.

E. ***Movement.*** Except for permitted flags and pennants, there shall be no movement or appearance of movement of the sign or any component thereof.

4.404 Residential Zoning Districts and Uses

The following regulations shall apply to all single family and multi-family residential zoning districts, as well as Mixed Use District (MU) parcels that do not contain non-residential uses.

A. ***Single and Multi-Family Dwelling Units.*** Other than the address sign required pursuant to Section 4.402.I: Address Signs, each dwelling unit may have 1 residential name sign identifying the occupant, not to exceed 3 square feet in area.

B. ***Residential Entry Identification Signs.*** Residential Entry Identification Signs are prohibited for single family residential properties or subdivisions. Residential Entry Identification Signs are allowed for multiple family residentially zoned or Mixed Use properties containing one or more buildings with a total of more than 15 units subject to the following:

1. *Number*. One (1) sign is allowed per multifamily residential development.

2. *Height.* The sign shall not exceed 6 feet in height.

3. *Area.* The sign shall not exceed 32 square feet in area.

4. *Setback.* The sign shall be set back a minimum of 10 feet from the property line, right-of-way, and any vehicle use area.

5. *Changeable Message Signs.* Changeable message signs are prohibited.

4.405 Nonresidential Uses in Residential Zoning Districts

A. ***Applicability.*** These regulations shall apply to nonresidential uses in residential zoning districts. Nothing herein shall be construed or applied in such a manner as

to regulate signs for religious uses more restrictively than signs for non-religious uses in the same zoning district.

B. ***Permanent Signs***

1. *Wall Signs*

a. Applicability. Wall Signs are permitted on any exterior wall of the tenant or user space.

b. Total Business Sign Area. Each tenant or user space shall be permitted a minimum Wall Sign area of 32 square feet. The maximum Wall Sign area permitted for a business shall be the greater of:

(1) The sign area calculated pursuant to Section 4.407.B.1.d: Sign Area Allowances per building elevation for the longest building elevation of the tenant or user space facing the street; or

(2) The sign area calculated pursuant to Section 4.407.B.1.d: Sign Area Allowances per building elevation for the length of the building elevation of the tenant or user space in which the principal entrance to the business is located.

c. Wall Signs are permitted at a rate of 1 square foot of sign area for each 1 foot of the building elevation adjacent to the tenant space.

d. Multi-Story Buildings. Wall Signs shall only be located on one floor of a multi-story building.

e. Design. Wall Signs shall conform to the Standard Design Review Criteria for Commercial and Industrial Projects.

f. Dimensions. The length of a Wall Sign shall not exceed 80 percent of the horizontal length of the exterior building elevation of a tenant space. The height of a Wall Sign shall not exceed 80 percent of the vertical dimension of the sign band or wall space on which the sign is placed.

g. Placement and Scale. Wall Signs shall be placed in an area that is free of architectural details. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. The Plan Commission, through Design Review, may approve a sign higher than allowed if it finds unusual circumstances and that the sign placement does not visually crowd the top of the wall.

h. Wall Signs Abutting Residential Uses. Wall Signs on building elevations that face properties designated for residential use in the Comprehensive Plan shall:

(1) not be illuminated;

(2) not exceed 16 square feet in area; and

(3) be installed no higher than 14 feet above grade.

2. *Monument Signs.* Unless otherwise allowed within this code, monument signs shall be permitted as follows:

a. Number. One on-site Monument Sign is permitted for any lot or parcel with a minimum of 50 feet of street frontage.

b. Size. Signs shall be no greater than 32 square feet in area and 6 feet in height.

c. Setback. Signs shall be set back a minimum of 10 feet from the right-of-way.

d. Changeable Message Signs. One-half (1/2) a monument sign area may be a Changeable Message Sign, subject to Design Review approval.

3. *Directional Signs:*

a. Size. Signs shall be no greater than 3 square feet in area and 3 feet in height.

b. Setback. Signs shall be set back a minimum of 10 feet from the right-of-way.

4.406 Commercial and Other Use Districts

A. ***Applicability.*** The following regulations shall apply to the following zoning districts: DMU, PFI, NC, CC, GC districts and MU parcels that contain non-residential uses.

B. ***Permanent Signs.*** Signs shall comply with the Design Review, or Administrative Design Review, if applicable, subject to the following regulations:

1. *Wall Signs*

a. Applicability. Except as otherwise provided in this code, Wall Signs are permitted for first and second floor tenant spaces only on any exterior wall of the tenant or user space.

b. Sign Length. The length of a Wall Sign shall not exceed 80 percent of the horizontal length of the exterior building elevation of a tenant space.

c. Placement and Height. Wall Signs shall be placed on an area that is free of architectural details. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. The Plan Commission, through Design Review, may approve a sign higher than allowed if it finds unusual circumstances and that the sign placement does not visually crowd the top of the wall.

d. Total Business Sign Area. Each business shall be permitted a minimum Wall Sign area of 24 square feet. The maximum Wall Sign area permitted for a business shall be the greater of:

(1) the sign area calculated pursuant to Section 4.406.B.1.e: Sign Area Allowances per Building Elevation for the longest building elevation of the tenant or user space facing the street; or

(2) the sign area calculated pursuant to Section 4.406.B.1.e: Sign Area Allowances per Building Elevation for the length of the building elevation of the tenant or user space in which the principal entrance to the business is located.

e. Sign Area Allowances per Building Elevation. In addition to Non-Frontage Wall Signs as permitted in 4.406.B.2, Wall Signs are permitted at a rate of:

(1) In the GC District, 2 square feet of sign area for each 1 lineal foot of the building elevation adjacent to the tenant space.

(2) In the CC, DMU and MU districts, 1 and ½ square feet of sign area for each lineal feet of the building elevation adjacent to the tenant space.

(3) In the PFI and NC districts, 1 square foot of sign area for each lineal foot of the building elevation adjacent to the tenant space.

f. Multi-Story Buildings. Wall Signs on a multi-story building shall be limited to the first and second floors, except when located in the PFI district, Wall Signs may be located above the second floor, subject to the same overall size limitations. Wall Signs shall conform to criteria set forth below, in addition to all other wall sign criteria in Section 4.406.B.1.

(1) Individual Building Identification Signs located on buildings two or more stories in height shall not exceed 75 square feet in area.

(2) Sign area allowance for first and second floor tenants is subject to the provisions of Sections 4.406.B.1.d: Total Business Sign Area and 4.406.B.1e: Sign Area Allowances per Building Elevation.

g. Wall Signs Abutting Residential Uses. Wall Signs on building elevations that face properties designated for residential use in the Comprehensive Plan shall:

(1) not be illuminated;

(2) not exceed 16 square feet in area; and

(3) be installed no higher than 14 feet above grade.

h. Projecting Signs. Projecting Signs are permitted in the Downtown Mixed Use and Mixed Use districts, subject to the following criteria:

(1) Location. One projecting sign and its bracket are permitted per tenant on each principal building for each street frontage. Up to two (2) signs may be mounted on one (1) Bracket. For buildings located at an intersection, one 45-degree projecting corner sign and bracket is permitted in lieu of 2 frontage projecting signs. An additional sign bracket is allowed for a separate tenant space on a street frontage for every 20 feet of additional frontage, up to a maximum of three (3) brackets per street frontage.

(2) Placement. No sign shall project more than 5 feet from the face of the building, nor encroach closer than 2 feet from the face of a curb on a public or private street. The bracket may extend up to six (6) inches beyond the sign. No sign shall be higher than 5 feet below the top of a parapet wall, the top of a hip or gable roof, or 25 feet above grade, whichever is lower. The bracket may extend up to six (6) inches above the sign. Projecting signs and brackets shall be located in such a manner as to complement architectural features of the building.

(3) Clearance. All projecting signs shall maintain a 10-foot vertical clearance from a public sidewalk, walkway or path A projecting sign shall maintain a 8 foot vertical clearance from a private sidewalk, walkway or path. The clearance shall be a minimum of 16 feet when above an alley, driveway, or other area vehicle travel area.

(4) Approval. All projecting signs in the DMU district shall receive a certificate of appropriateness from the Historic

Preservation Commission (HPC) before issuance of a building permit. In reviewing the application the HPC shall ensure that, as nearly as possible, the objectives listed in subsections h(5): Design, and h(7): Lighting, of this section, are met.

(5) Design. Projecting signs shall reflect the character of the downtown historic district in materials, colors, scale, proportion, location and general design.

(6) Size. Projecting signs shall be subject to the maximum size limitation of Wall Signs and Non-Frontage Wall Signs, and shall be included as part of the total allowed Wall Sign area for a building and for the number of allowed Non-Frontage Wall Signs. Only one side of a projecting sign shall count toward allowable sign area.

(7) Lighting. Projecting signs may be illuminated in a manner that does not detract from the historic character of the building or the neighborhood.

(8) Non-Frontage Signs. An allowed Non-Frontage Sign may be an allowed projecting sign.

i. ***Painted Wall Signs***. Painted Wall Signs are permitted in the, Downtown Mixed Use District (DMU) subject to the following regulations:

(1) Permit Required. Businesses displaying a Painted Sign shall obtain Certificate of Appropriateness approval and a building permit prior to the application of the sign to a surface. The application shall depict the proposed sign design elements, text, colors and area.

(2) Location. A Painted Wall Sign is prohibited on any masonry surface of any building. A painted sign may only be placed on a non-porous material or metal surface.

(3) Placement. Painted Wall Signs shall be subject to the maximum size limitation of Wall Signs and shall be included as part of the total allowed wall sign area for a building.

(4) Design. Projecting signs shall reflect the character of the downtown historic district in materials, colors, scale, proportion, location and general design

j. Service Station Canopy Signs

(1) Number. The maximum number of signs attached to a canopy shall be 2.

(2) Area. Canopy Signage shall count toward total allowable wall sign area.

(3) Projection. No part of the sign shall project from a canopy wall by more than 4 inches.

(4) Placement and Scale. The sign shall be vertically centered on the face of the canopy and be a minimum of 3 inches from both the top and bottom.

2. *Wall Signs, Non-Frontage.* In the DMU District, a business or tenant may, with landlord approval, have one (1) such sign not to exceed twenty-four (24) square feet in area on one (1) wall facing a street. Such sign shall be subject to the requirements of Sections 4.406.B.1.a, b, c, g, h, and i. No building's street-facing elevation shall have more than two (2) such signs.

3. *Freestanding Signs*

a. Monument Signs

(1) Number. One on-site Monument Sign is permitted for any lot or parcel with the following minimum street frontages:

i. a minimum of 50 feet of street frontage in the DMU district. No additional Monument Sign is permitted.

ii. a minimum of 100 feet of street frontage in the PFI, NC, CC, GC districts and MU parcels that contain non-residential uses. One additional Monument Sign is permitted for each additional 300 feet of street frontage on the same lot or parcel.

(2) Height. Signs shall be no greater than 6 feet in height. The height of the display area for Changeable and Electronic Changeable Message signage potions shall be no greater than 4 feet in height.

(3) Area. For buildings whose setback is less than 75 feet from the right-of-way, the monument sign area shall not exceed 32 square feet. For buildings whose minimum setback is at least 75 feet from the right-of-way, the monument sign area shall not exceed 60 square feet.

(4) Setback. Signs shall be set back from the right of way or back of curb of a private street a minimum of:

i. 0 feet in the DMU District.

ii. 10 feet in the PFI, NC, CC, GC Districts and MU parcels that contain non-residential uses.

(5) Changeable Message Signs. One-half (1/2) of the sign face of a monument sign may be a Changeable Message Sign, subject to Design Review approval.

b. Tower Signs. Tower Signs are permitted in the General Commercial zoning district for retail centers exceeding 10 net acres, as follows:

(1) Number. One on-site Tower Sign is permitted for each 600 feet of street frontage, provided the total number of all Freestanding Signs, including Monument Signs, shall not exceed 1 sign per 300 feet of street frontage.

(2) Height. Tower Signs shall not exceed a maximum height of 20 feet.

(3) Area. The maximum area permitted for a Tower Sign shall be 80 square feet.

(4) Setback. Tower Signs shall be set back a minimum of 10 feet from the right-of-way or back of curb of a private street.

c. Directory Signs

(1) Number. One sign shall be permitted for each 5 commercial tenants or uses.

(2) Size. Signs shall be no greater than 24 square feet in area and 6 feet in height.

(3) Setback. Signs shall be set back a minimum of 75 feet from any perimeter property line, except where such property line abuts other commercial or employment development and there is a cross-access between the commercial or employment properties.

(4) Location. Directory Signs shall only be installed in landscape islands or pedestrian areas.

d. Directional Signs. Directional Signs are not counted as part of the total sign area for a use and shall comply with the following regulations:

(1) Applicability. Directional Signs are permitted to assist in traffic movement on a property. Directional Signs shall include an arrow, and may include copy to read "Enter",

"Exit" or “Drive-Through” or similar language and a single business logo.

(2) Size. Signs shall be no greater than 3 square feet in area and 3 feet in height.

(3) Setback. Signs shall be set back a minimum of 10 feet from the right-of-way and 3 feet from the back of curb of a private street.

e. Signs on Accessory Entry Monuments. Signs for center or project identification are permitted on accessory entry monuments for multiple-tenant projects exceeding 10 net acres, subject to Design Review approval.

(1) Area. Signs shall not occupy more than 50 percent of the area of the structure.

(2) Spacing. Signs shall maintain a minimum spacing of 100 feet from any other freestanding sign.

f. Electronic *Changeable Message Signs*. Where permitted by this Chapter (see Section 4.402.L.3), the Plan Commission, through Design Review (or the Historic Preservation Commission through COA where applicable), may approve an electronic *Changeable Message Sign* and may establish operational and restrictions in addition to those in this Section. Operational restrictions include, but are not limited to, the frequency and type of message change and intensity of illumination. The Plan Commission (or the Historic Preservation Commission through a COA where applicable) shall consider the visual impacts of the sign on the uses surrounding the sign location, and traffic volume, movements and speed in the area of the sign.

Changeable Message Signs operation is regulated as follows:

(1) Static. The Plan Commission, through Design Review approval (or the Historic Preservation Commission through COA where applicable), may establish the minimum time interval permitted between static message changes as a part of the approval of the sign, but in no case shall a message change interval be less than 15 seconds.

(2) Fade/Dissolve. Images that fade and/or dissolve are prohibited.

(3) Travel/Scroll. Travelling and scrolling sign messages are prohibited.

(4) Animated. Animated sign messages are prohibited.

(5) Maintenance. All light emitting elements of the sign shall be fully operational when messages are displayed. Elements failing to emit light shall be replaced in a timely manner. If the display malfunctions beyond individual light emitting elements, the display shall be turned off so that no light emits.

(6) Intensity. The intensity of light emitted by the Electronic Message display area shall be controlled by an integral module to sense ambient light and reduce the intensity of light as ambient light decreases. Information on this control shall be provided with the Design Review (or COA where applicable) application specifying the varying light intensities achieved. Daytime intensity shall be limited to 1,000 nits; nighttime intensity shall be limited to 100 nits. Additional limitations may be established by the Plan Commission (or the Historic Preservation Commission where applicable) when the sign faces or is proximate to property zoned or used as residential.

(7) Electronic Changeable Message signs shall be turned off when the business(es) it advertises is not open. For signs within 200 feet of property zoned or used as residential, the ECM shall not be illuminated between 11:00 pm and 7:00 am.

g. Gas Station Pump-Topper or Spanner Signs**.** Pump-Topper and Spanner Signs shall not include illumination and shall be approved by Design Review or Administrative Design Review. Colors, materials, placement, and dimensions shall complement the design and scale of the canopy structure and the main building

h. Drive-Through Menu Signs

(1) Number. Drive-Through Menu Signs shall be limited to 2 per drive-through lane.

(2) Area. Signs shall be no greater than 50 square feet in area and 7 feet in height.

(3) Location. Location shall be approved through Design Review as part of a Design Review plan.

(4) Design. Drive-Through Menu Signs shall be constructed with a solid base, complimenting the materials and colors of the restaurant.

(5) Visibility. The Plan Commission through Design Review (or the Historic Preservation Commission through COA where applicable) may require screening be added to the

site to minimize visibility of Electronic Changeable Message Signs from streets or adjacent residentially used or zoned properties.

C. ***Window Signs***. Except as permitted elsewhere in this Code, window signs shall comply with the following:

1. *Area*. Signs shall not exceed 25 percent of the total window area. Window signs are not part of permitted wall sign area. Illuminated window signs shall not exceed 6 square feet per sign.

2. *Location*. Individual businesses may display signs in a first floor window area or within 6 feet behind a window.

D. ***Awning and Canopy Signs***. Signs on awnings or canopies are permitted, subject to issuance of a building permit and the following standards:

1. Awning and Canopy sign area shall count toward permitted wall sign area for the business.

2. Signs shall not exceed 80 percent of the width and height of the awning or canopy. Letters on a valance shall not exceed 80 percent of the width and height of the valance.

3. The underside of a translucent canopy or awning shall not be illuminated.

E. ***Community Signs.*** In addition to other permitted signs, Community Signs are permitted in the PFI and DMU districts, subject to the following regulations:

1. *Number.* One Community Sign is permitted for each zoning lot.

2. *Height.* Community Signs shall not exceed a maximum height of 8 feet.

3. *Area.* Community signs shall not exceed an overall maximum area of 60 square feet.

4. *Changeable Message Area.* Where permitted elsewhere by this Code, up to one-half (1/2) of the sign face of a community sign may be a *Changeable Message Sign* subject to Design Review approval.

5. *Setback.* Community Signs shall be set back a minimum of 10 feet from the right-of-way or back of curb of a private street.

F. ***Roof Signs.*** In addition to other permitted signs, Roof Signs are permitted in the DMU District, subject to the following regulations:

1. *Number.* One Roof Sign is permitted for each building.

2. *Location.* A Roof Sign shall be located only on a portion of the roof that is in front of a building wall that is at least 1.5 times the height and width of the sign.

3. *Height.* The bottom of a Roof Sign shall not be more than 2 feet above the roof surface where it is installed.

4. *Area.* A Roof Sign shall not exceed a maximum area of 32 square feet.

G. ***Chimney Signs.*** In addition to other permitted signs, Chimney Signs are permitted in the DMU District, subject to the following regulations:

1. *Number.* Two Chimney Signs are permitted on each chimney that is a minimum of 50 feet in height.

2. *Location.* The top of a Chimney Sign shall be no higher than two-thirds of the height of the chimney.

3. *Area.* Chimney Signs shall not exceed an overall maximum area of 60 square feet.

4. *Placement.* Chimney Signs shall not extend around the entire circumference of the chimney surface.

5. *Material.* Chimney Signs shall be painted directly on the chimney surface.

6. *Illumination.* Chimney Signs may be externally illuminated from the base of the chimney or a building element, provided that the light source is fully shielded.

H. ***Pole Signs.*** In addition to other permitted signs, Pole Signs are permitted in the DMU District in lieu of a monument sign, subject to the following regulations:

1. *Uses.* Pole Signs shall only be allowed for properties containing a Fueling Facility.

2. *Number.* One Pole Sign is permitted on a property.

3. *Location.* No portion of a Pole Sign shall be closer than 5 feet to any property line, or 20 feet from any structure.

4. *Height.* The maximum height of a Pole Sign shall be 20 feet.

5. *Clearance.* Pole Signs shall maintain an 8 foot vertical clearance from a public or private sidewalk, walkway or path.

6. *Overhang.* No portion of a Pole Sign shall overhang a driveway, parking area or other vehicular access way.

7. *Area.* Pole Signs shall not exceed an overall maximum area of 50 square feet.

8. *Changeable Message Signs.* No more than one-half (1/2) of the sign area may be a Changeable Message Sign subject to Design Review approval.

Use of Electronic Changeable Message Signs shall be limited to the price of fuel.

I. ***Portable Signs.*** In addition to other permitted signs, Portable Signs are permitted in the DMU, MU, NC, CC, and GC districts, subject to the following regulations:

1. *Permit Required.* Businesses displaying a portable sign shall first obtain a building permit. The sign shall display a current City decal issued with the building permit.

2. *Size.* Portable Signs shall be no greater than 6 square feet in area.

3. *Height.* Portable Signs shall not exceed 4 feet in height.

4. *Number.* No more than one sign shall be permitted per business customer entrance. One additional portable sign for valet parking service is allowed to be displayed while a valet is on duty.

5. *Display.* Signs shall be removed:

   a. When the business is not open for customers.

   b. When the National Weather Service issues a high wind warning, a tornado or severe thunderstorm watch or warning.

   c. From public sidewalks during an accumulating snowfall event.

6. *Location.* Signs shall be located:

   a. At grade level.

   b. In front of the business property

   c. No more than 15 feet from the customer entrance to the building for the business being advertised, unless a pedestrian plaza is adjacent to a customer entrance, in which case the sign may be located no more than 50 feet from that entrance.

   d. A minimum of 2 feet from back of curb adjacent to parking spaces.

7. *Prohibited Locations.* Signs shall not be located:

   a. In landscaped areas, other than turf grass.

   b. In parking aisles or stalls.

   c. On or anchored to fences, planters, other signs, vehicles, utility facilities, or any structure.

   d. In streets or alleys.

8. *Right-of-Way Placement.* Signs may be placed on a public sidewalk in the DMU district only:

   a. Pursuant to the issuance of an annual City license,

   b. Within 15 feet of a customer entrance if no location on private property can meet the standards of this code,

   c. Subject to all requirements for licensing, insurance and indemnification of the City contained in Title 3 Chapter 21 of the City Code.

9. *Construction and Maintenance.* Signs shall be:

   a. Constructed of exterior grade, rigid, weather resistant and durable materials,

   b. Of sufficient weight and durability to insure the sign remains in place during normal weather conditions, and

   c. Maintained in a professional manner free of chipping paint, cracks, gouges, loss of letters, and similar defects.

10. *Elements Prohibited on Portable Signs.* The following shall be prohibited on Portable Signs:

    a. Any form of internal or external illumination, including flashing, blinking or rotating lights;

    b. Animation;

    c. Reflective materials;

    d. Attachments, including, but not limited to, sandbags or other items to hold a sign in place, balloons, ribbons, flags, speakers, other copy or graphics, etc.

11. *Clearance for Pedestrians*. A clear pedestrian access path shall be maintained as follows:

    a. Public Sidewalks. A minimum of 4 feet.

    b. Private Walkways. A minimum of 3 feet.

4.407 Office/Employment Zoning Districts

A. ***Applicability.*** The following regulations shall apply to the following zoning districts: O, SB, LI, and GI.

B. ***Approval.*** Signs shall be approved as part of a development project through Design Review or separately by Administrative Design Review.

C. ***Permanent Signs.*** Signs shall comply with the approved final Design Review or Administrative Design Review subject to the following regulations:

1. *Wall Signs.*

a. Applicability. Wall Signs are permitted on any exterior wall of the tenant or user space.

b. Total Business Sign Area. Each business shall be permitted a minimum Wall Sign area of 32 square feet. The maximum Wall Sign area permitted for a business shall be the greater of:

(1) The sign area calculated pursuant to Section 4.408.C.1c: Sign Area Allowances per Building Elevation for the longest building elevation of the tenant or user space facing the street; or

(2) The sign area calculated pursuant to Section 4.408.C.1c: Sign Area Allowances per Building Elevation for the length of the building elevation of the tenant or user space in which the principal entrance to the business is located.

c. Sign Area Allowances per Building Elevation. Wall Signs are permitted on any exterior wall of the tenant or user space at a rate of 1 square foot of sign area for each 1 lineal foot of the building elevation adjacent to the tenant space. In no case shall a wall sign exceed 200 square feet.

d. Multi-Story Buildings. Wall Signs shall be only be located on the first floor of a multi-story building in the SB, Service Business District and O, Office District. Wall Signs may be permitted above the first floor in the LI, Light Industrial District and the GI, General Industrial District, subject to the following requirements.

(1) Wall Signs located on the first floor or mezzanine area of a structure shall be subject to an Administrative Design Review.

(2) Wall Signs located on the second story or above shall be subject to an Administrative Design Review by the Plan Commission to review and approve the proposed location of signage, illumination and other aspects of the design. Wall Signs above the second story are subject to the same size and dimension requirements of Section 4.407.B.1.

e. Dimensions. The length of a Wall Sign shall not exceed 80 percent of the horizontal length of the exterior building elevation of a tenant space. The height of a Wall Sign shall not exceed 80

percent of the vertical dimension of the sign band or wall space on which the sign is placed.

f. Placement and Scale. Wall signs shall be placed on an area that is free of architectural details. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. The Plan Commission may approve a sign that is closer to the top of the parapet wall if it finds that the sign placement does not visually crowd the top of the wall.

g. Wall Signs Abutting Residential Uses. Wall Signs on building elevations that face properties designated for residential use in the Comprehensive Plan shall:

(1) Not be illuminated;

(2) Not exceed 16 square feet in area; and

(3) Be installed no higher than 14 feet above grade.

2. *Freestanding Signs*

a. Monument Signs

(1) Number. One Monument Sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. Parcels with 600 feet of street frontage are permitted 2 Monument Signs. One additional Monument Sign is permitted for each additional 300 feet of street frontage.

(2) Height. Signs shall be no greater than 10 feet in height. The height of the display area for Changeable and Electronic Changeable Message signage potions shall be no greater than 6 feet in height.

(3) Area. Signs shall be no greater than 60 square feet in area.

(4) Setback. Monument signs shall be set back a minimum of 10 feet from the right-of-way and 5 feet from any curb.

(5) Changeable and Electronic Changeable Message Signs. Up to one-half (1/2) of the sign face of 1 monument sign may be a Changeable Message Sign. In the Light and General Industrial Districts this same limitation may be a Changeable or Electronic Changeable Message Sign, subject to Design Review approval. Only 1 changeable message sign is allowed per Zoning Lot.

(6) Electronic *Changeable Message Signs*. Where permitted by this Chapter (see Section 4.402.L.3), the Plan Commission, through Design Review (or the Historic Preservation

Commission through COA where applicable), may approve an electronic *Changeable Message Sign* in the LI and GI districts on properties located north of Wilson Street and east of Washington Avenue and provided the sign is located a minimum of 200 feet from all property with residential use or zoned solely for residential uses. The Plan Commission, through Design Review (or the Historic Preservation Commission through COA where applicable) may establish operational restrictions in addition to those in this Section. Operational restrictions include, but are not limited to, the frequency and type of message change and intensity of illumination. The Plan Commission (or the Historic Preservation Commission through a COA where applicable) shall consider the visual impacts of the sign on the uses surrounding the sign location, and traffic volume, movements and speed in the area of the sign.

Changeable Message Signs operation is regulated as follows:

(a) Static. The Plan Commission, through Design Review approval (or the Historic Preservation Commission through COA where applicable), may establish the minimum time interval permitted between static message changes as a part of the approval of the sign, but in no case shall a message change interval be less than 15 seconds.

(b) Fade/Dissolve. Images that fade and/or dissolve are prohibited.

(c) Travel/Scroll. Travelling and scrolling sign messages are prohibited.

(d) Animated. Animated sign messages are prohibited.

(e) Maintenance. All light emitting elements of the sign shall be fully operational when messages are displayed. Elements failing to emit light shall be replaced in a timely manner. If the display malfunctions beyond individual light emitting elements, the display shall be turned off so that no light emits.

(f) Intensity. The intensity of light emitted by the Electronic Message display area shall be controlled by an integral module to sense ambient light and reduce the intensity of light as ambient light decreases. Information on this control shall be

provided with the Design Review (or COA where applicable) application specifying the varying light intensities achieved. Daytime intensity shall be limited to 1,000 nits; nighttime intensity shall be limited to 100 nits. Additional limitations may be established by the Plan Commission (or the Historic Preservation Commission where applicable) when the sign faces or is proximate to property zoned or used as residential.

(g) Electronic Changeable Message signs shall be turned off when the business(es) it advertises is not open.

b. Directory Signs

(1) Number. One sign shall be permitted for each 5 tenants or uses.

(2) Size. Signs shall be no greater than 24 square feet in area and 6 feet in height.

(3) Setback. Signs shall be set back a minimum of 75 feet from any perimeter property line, except where such property line abuts other commercial or employment development and there is a cross-access between the commercial or employment properties.

(4) Location. Directory Signs shall only be installed in landscape islands or pedestrian areas.

c. Directional Signs. Directional Signs are not counted as part of the total sign area for a use and shall comply with the following regulations:

(1) Applicability. Directional Signs are permitted to assist in traffic movement on a property.

(2) Directional Signs shall include an arrow and may include copy to read "Enter", "Exit" or “Drive-Through” or similar language and a single business logo.

(3) Size. Signs shall be no greater than 3 square feet in area and 3 feet in height.

(4) Setback. Signs shall be set back a minimum of 25 feet from the right-of-way.

(5) Prohibited Locations. Directional Signs shall not be located in a required perimeter landscape area.

3. *Signs on Accessory Entry Monuments.* Signs for center or project identification are permitted on accessory entry monuments for multiple-tenant projects exceeding 20 net acres, subject to Design Review approval.

   a. Area. Signs shall not occupy more than 50 percent of the area of the structure.

   b. Spacing. Signs shall maintain a minimum spacing of 100 feet from any other freestanding sign.

D. ***Window Signs***. Except as permitted elsewhere in this Code, window signs shall comply with the following:

1. *Area*. Signs shall not exceed 25 percent of the total window area. Window signs are not part of permitted wall sign area. Illuminated window signs shall not exceed 6 square feet per sign.

2. *Location*. Individual businesses may display signs in a first floor window area or within 6 feet behind a window. Signs shall not be displayed in, on, or within 6 feet behind a window located above the first floor.

E. ***Awning and Canopy Signs***. Signs installed on canopies shall comply with the following:

1. *Area.*

   (i) Freestanding Canopy. Signs shall not exceed 25 percent of the canopy edge length; signs shall not contribute to the total wall signage area allowed.

   (ii) Attached Canopy. Signs shall not exceed 80 percent of the width and height of the awning or canopy. Letters on a valance shall not exceed 80 percent of the width and height of the valance.

2. *Height.* Signs shall not extend above or below the vertical edge of the canopy.

3. *Location.* Signs may be located on canopy edges that face public right-of-ways or private streets.

4. *Illumination.* The underside of a translucent canopy or the edge of a canopy shall not be illuminated, except that an allowed sign may be illuminated where the canopy edge does not face a property designated for residential use in the Comprehensive Plan.

4.408 Parks and Open Space Zoning District

A. ***Applicability.*** These regulations shall apply to uses located in the POS zoning district.

B. ***Approval.*** Signs shall be approved as part of a development project through Design Review or separately by Administrative Design Review.

C. ***Permanent Signs***

1. *Wall Signs*

   a. Applicability. Wall Signs are permitted on any exterior wall of a structure.

   b. Total Sign Area. Each building shall be permitted a single Wall Sign of 32 square feet.

2. *Monument Signs*

   a. Number. One monument sign is permitted on each street frontage. One additional monument sign is permitted for each street frontage over 600 feet.

   b. Size. Signs shall not exceed 32 square feet in area and 6 feet in height.

   c. Setback. Signs shall be set back a minimum of 10 feet from the right-of-way.

3. *Changeable Message Panels.* One-half of a monument sign face may be a changeable message sign, subject to Design Review approval.

4.409 Removal of Signs on City Property or Rights of Way

The Code Compliance Officer, Building Commissioner, Building Inspector or any Police Officer is authorized to remove any Temporary Sign or Limited Duration Sign installed without permission on City property or in the right of way. In addition to the above City employees, City utility employees are authorized to remove any sign installed without permission on City utility facilities or property.

4.410 Removal of Hazardous Signs

The Building Commissioner is authorized to remove or require the immediate removal or repair without written notice of any unsafe sign that creates an immediate hazard to persons or property.

4.411 Temporary Signs, Limited Duration Signs, and Other Non-Permanent Signs

Temporary Signs and Limited Duration Signs, as defined in Chapter 6 of this Code, shall be permitted subject to the following regulations and any applicable State regulations:

A. ***General Regulations for Temporary Signs and Limited Duration Signs.***

1. Temporary Signs may be displayed up to a maximum of 30 consecutive days. Temporary Signs do not require a permit.

2. Limited Duration Signs may be displayed for greater than 30 days, but not indefinitely. A permit is required for a Limited Duration Sign where specified in this Chapter.

3. All Temporary and Limited Duration signs must be installed and maintained such that in the opinion of the Code Compliance Officer, they do not create a safety hazard.

4. Temporary and Limited Duration Signs that are frayed, torn, broken, or that are no longer legible will be deemed unmaintained and required to be removed.

5. Temporary and Limited Duration Signs must be made of durable materials and shall be maintained as specified herein.

6. Illumination of or onto any Temporary or Limited Duration Sign is prohibited.

7. Temporary signs are exempt from the permit requirements further outlined herein, but the date of erection of a temporary sign must be written in permanent ink on the lower right hand corner of the sign face.

8. The City or the property owner may confiscate Temporary or Limited Duration signs installed in violation of this Chapter. Neither the City nor the property owner is responsible for notifying sign owners of confiscation of a sign installed in violation of this Chapter.

9. The party posting the Temporary or Limited Duration sign is solely responsible for obtaining the permission of the property owner before posting their sign.

10. Portable Signs are authorized in the DMU, MU, NC, CC, and GC districts as permitted in Section 4.407.I of this Chapter.

11. Temporary or Limited Duration Signs cannot be affixed to a permanent Freestanding Sign.

B. ***Limited Duration Sign Permit Requirements.*** The following rules apply where a permit is required for a Limited Duration Sign:

1. A permit for a limited duration sign is issued for one (1) year and may be renewed annually.

2. One (1) sign is allowed per permit. Up to two (2) permits per address, subject to the size and number requirements set forth in this section, may be issued.

3. An application for a limited duration sign permit must include:
   a. A description of the sign indicating the number, size, shape, dimensions, and colors of the sign, and the expected length of time the sign will be displayed;
   b. A schematic drawing of the site showing the proposed location of the sign in relation to nearby building and streets;
   c. The number of Limited Duration signs existing on the site.

C. ***Temporary and Limited Duration Signs in Residential Zoning Districts:***

1. Temporary Signs:
   a. One (1) Temporary Sign is permitted per residential property.
   b. Temporary signs may be displayed for a maximum duration of 30 consecutive days with four (4) sign postings permitted per year. The same sign cannot be displayed on the property for successive 30 day periods.
   c. Area: Each sign shall have a maximum area of six (6) square feet.
   d. Height: Each sign shall have a maximum height of six (6) feet.

2. Limited Duration Signs:
   a. One (1) Limited Duration Sign is permitted per residential property.
   b. Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year.
   c. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   d. Height: Each sign shall have a maximum height of six (6) feet.
   e. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.

3. Nonresidential Uses in Residential Zoning Districts:

   a. Initial Display of Banners and Advertising Flags. Banners and advertising flags are permitted once during the first year of operation of a use, for a period not to exceed 90 consecutive calendar days and commencing not earlier than 30 days prior to the first day of operation of the use. Such Banners and flags shall be located on the exterior building wall of the tenant space to which they are appurtenant and shall not exceed a total area of 32 square feet.

   b. Periodic Display of Banners and Advertising Flags. Banners and advertising flags are permitted for a period not to exceed 14 consecutive days per calendar quarter. Such Banners and flags shall be located on the exterior building wall of the space to which

they are appurtenant, and shall not exceed a total area of 32 square feet.

4. This Section C is not intended to regulate signs on residential properties where such regulation is otherwise preempted by State law.

D. ***Temporary and Limited Duration Signs in Commercial, Downtown Mixed Use, Mixed Use, and Public Facilities/Institutional Districts:***

1. Temporary Signs in Commercial, Mixed Use, and Public Facilities/Institutional Districts:
   a. Freestanding Temporary Signs are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:
      i. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage. No Temporary Signs may be installed 30 days prior to the installation of a new sign.
      ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
      iii. Height: Height: Each sign shall have a maximum height of six (6) feet.
   b. Wall mounted Temporary Signs are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:
      i. Duration and Number: A single wall mounted Temporary Signs may be displayed for a maximum duration of 30 consecutive days with twelve (12) signs permitted per one year period per tenant or occupant.
      ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.

2. Limited Duration Signs are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:
   a. Duration and Number: Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year per street frontage.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Each sign shall have a maximum height of six (6) feet.
   d. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.

E. ***Other Non-Permanent Signs, Banners, and Flags in Commercial, Downtown Mixed Use, Mixed Use, and Public Facilities/Institutional Districts.*** Other non-permanent signs, banners, and advertising flags are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:

1. *Additional Temporary Signs Related to Construction Projects that Reduce Accessibility.*

   a. *Purpose.* During periods of construction activity that reduce accessibility to non-residential properties, owners of affected properties may need special signage to identify and to direct customers safely to their businesses. The City will also have a need for identification of traffic routes, parking areas and special events in the impacted area. The purpose of the Section is to allow increased temporary signage opportunity that is not otherwise allowed in this Chapter during a project of impact, as defined by City Council action. This Section will allow signs designed and located in such a manner as to maximize their effectiveness while minimally affecting construction activity and detracting from the appearance of the City.

   b. *Properties Affected.* By Resolution, the City Council shall establish the specific properties subject to the rights and restrictions of this Section, as identified on a map that will be attached to said Resolution as an Exhibit, and the duration of those rights and restrictions. The duration shall be generally from the commencement of construction until construction is completed, so that full vehicle and pedestrian access is restored to a majority of the properties on the corresponding map.

   c. *Permits Required.* A building permit must be applied for and issued for any sign allowed subject to this Section. The sign shall display a current City decal issued with the building permit.

   d. *Sign Removal.* All signs installed pursuant to this Section must be removed no later than thirty (30) days after the City informs each permitee that the sign must be removed as set forth by the terms of the Resolution specified in Section 4.412.E.1.b.

   e. *Signs Allowed.* Notwithstanding sign regulations herein to the contrary, signs deviating from those otherwise allowed, whether in number, size, or placement, may be considered through the building permit application process. In addition to all other customary building permit reviews for temporary signs, any sign sought to be approved pursuant to this Section shall be approved by the Community Development Director. Under certain conditions, the Community Development Director may allow the following:

      (1) signs placed in the public right-of-way if no opportunity exists to display a sign on the premises.

(2) signs on public property, but not affixed to light poles, utility poles, traffic control devices, or informational signs.

(3) off-premises signs, in reasonable proximity to the business being advertised.

f. *Sign Size and Placement.*

(1) Sign size shall not exceed 32 square feet.

(2) Signs cannot block visibility for vehicles, bicycles or pedestrians or of other business signage.

(3) Signs shall not obstruct more than 50 percent of a window

(4) Signs shall not interfere with construction activity

g. *Right-of-Way Placement.* Signs may be placed on a public sidewalk in the DMU District only:

(1) Pursuant to the issuance of a City license,

(2) Subject to all requirements for licensing, insurance and indemnification of the City contained in Title 3 Chapter 21 of the City Code.

h. *Display.* Signs not permanently affixed to a building or securely anchored in the ground shall be removed:

(1) When the business is not open for customers.

(2) When the National Weather Service issues a high wind warning, a tornado or severe thunderstorm watch or warning.

(3) From public sidewalks during an accumulating snowfall event.

i. *Construction and Maintenance.* Signs shall be:

(1) Constructed of exterior grade, rigid, weather resistant and durable materials,

(2) Of sufficient weight and durability to insure the sign remains in place during normal weather conditions, and

(3) Maintained in a professional manner free of chipping paint, cracks, gouges, loss of letters, and similar defects.

j. *Elements Prohibited on Signs Pursuant to This Section.* The following shall be prohibited:

(1) Any form of internal or external illumination, including flashing, blinking or rotating lights;

(2) Animation;

(3) Reflective materials;

(4) Attachments, including, but not limited to, sandbags or other items to hold a sign in place, balloons, ribbons, flags, speakers, other copy or graphics, etc.

k. *Clearance for Pedestrians*. A clear pedestrian access path shall be maintained as follows:

(1) Public Sidewalks. A minimum of 4 feet.

(2) Private Walkways. A minimum of 3 feet.

2. *Grand Opening and Re-Opening Signs.* Grand opening and re-opening signs may be allowed as follows:

a. Building permits shall be required for all signs displayed pursuant to this section; all or several signs can be proposed in a single building permit application.

b. Signs may be displayed for no more than 30 days before the opening or re-opening after completion of an addition or renovation to the building in which the business is located, when such improvement has been issued a building permit by the City.

c. Signs may be displayed for a period not to exceed ninety (90) days. This ninety (90) day period shall begin with the earliest installation date established with issuance of the first grand opening or re-opening sign building permit. Subsequent building permits issued for grand opening or re-opening signs for the same business shall allow sign display only during the same ninety (90) day period established by issuance of the first grand opening or re-opening sign building permit.

d. Allowed signs include, but are not necessarily limited to, banners, flags, balloons, streamers, and other means to advertise the opening of the operation, subject to the approval of the Community Development Director and limitations imposed for the protection of the public health, safety and welfare. Signs that flash, blink, or are animated, or contain any moveable parts, whether moved by mechanical means or by a person, or designed to move by forced air, are prohibited.

e. Signs may be displayed on the property occupied by the business only, or on property that is part of an approved Planned Development that includes the subject business when written consent from the

owner of the other property is accepted as part of the approved building permit(s).

f. Signs shall be placed in a manner to preserve vehicle and pedestrian access and public safety, as determined by the Community Development Director.

F. ***Temporary and Limited Duration Signs in Employment Districts:***

1. Freestanding Temporary Signs are permitted in Employment Districts as follows:
   a. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Height: Each sign shall have a maximum height of six (6) feet.
2. Wall mounted Temporary Signs are permitted in Employment Districts as follows:
   a. Duration and Number: Wall mounted Temporary Signs may be displayed for a maximum duration of 30 consecutive days with twelve (12) signs permitted per one year period per tenant or occupant.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Height: Each sign shall have a maximum height of six (6) feet.
3. Limited Duration Signs are permitted in Employment Districts as follows;
   a. Duration and Number: Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year per street frontage.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Each sign shall have a maximum height of eight (8) feet.
   d. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412(b).

G. ***Other non-permanent signs, Banners, and Flags in Employment Districts.***

1. *Initial Display of Banners and Advertising Flags.* Banners and advertising Flags are permitted once during the first year of operation of a use for a period not to exceed 90 consecutive calendar days and commencing not earlier than 30 days prior to the first day of operation of the use. Such Banners and Flags shall be located on the exterior building wall of the

tenant space to which they are appurtenant and shall not exceed a total area of:

a. 32 square feet for occupancies up to 25,000 square feet; or

b. 64 square feet for occupancies greater than 25,000 square feet.

2. *Other Display of Banners and Advertising Flags.* Banners and advertising Flags are permitted for a period not to exceed 30 consecutive days per calendar year. Such Banners and Flags shall be located on the exterior building wall of the space to which they are appurtenant, and shall not exceed a total area of:

a. 32 square feet for occupancies up to 25,000 square feet; or

b. 64 square feet for occupancies greater than 25,000 square feet.

H. ***Temporary and Limited Duration Signs in the Downtown Mixed Use District:***

1. Temporary Signs and Limited Duration Signs in Downtown Mixed Use District:
   a. Freestanding Temporary Signs are permitted in Downtown Mixed Use Districts as follows:
      i. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage.
      ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
      iii. Height: Height: Each sign shall have a maximum height of six (6) feet.
   b. Wall mounted Temporary Signs are permitted in Downtown Mixed Use Districts as follows:
      i. Duration and Number: Wall mounted Temporary Signs may be displayed for a maximum duration of 30 consecutive days with twelve (12) signs permitted per one year period per tenant or occupant.
      ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
      iii. Height: Each sign shall have a maximum height of six (6) feet.
2. Limited Duration Signs are permitted in Downtown Mixed Use Districts as follows:
   a. Duration and Number: Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year per street frontage.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Each sign shall have a maximum height of six (6) feet.

d. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.

3. Other non-permanent signs, Banners, and Flags are permitted in DMU Districts pursuant to the Commercial regulations in 4.412. E.

I. ***Temporary and Limited Duration Signs in Parks and Open Space Districts:***

1. Temporary Signs:
   a. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage. No Temporary Signs may be installed 30 days prior to the installation of a new sign.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Height: Each sign shall have a maximum height of six (6) feet.

2. Limited Duration Signs:
   a. One (1) Limited Duration Sign is permitted per property in Parks and Open Space District. One additional sign may be permitted per 300 feet of frontage.
   b. Limited Duration signs may be displayed up to a maximum duration of 180 days, with one (1) posting permitted per year.
   c. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   d. Height: Each sign shall have a maximum height of six (6) feet.
   e. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.

1. Temporary Signs:
   a. One (1) Temporary Sign is permitted per residential property.
   b. Temporary signs may be displayed for a maximum duration of 30 consecutive days with four (4) sign postings permitted per year. The same sign cannot be displayed on the property for successive 30 day periods.
   c. Area: Each sign shall have a maximum area of six (6) square feet.
   d. Height: Each sign shall have a maximum height of six (6) feet.

2. Limited Duration Signs:
   a. One (1) Limited Duration Sign is permitted per residential property.
   b. Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year.
   c. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   d. Height: Each sign shall have a maximum height of six (6) feet.
   e. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.

3. Nonresidential Uses in Residential Zoning Districts:

   a. Initial Display of Banners and Advertising Flags. Banners and advertising flags are permitted once during the first year of operation of a use, for a period not to exceed 90 consecutive calendar days and commencing not earlier than 30 days prior to the first day of operation of the use. Such Banners and flags shall be located on the exterior building wall of the tenant space to which they are appurtenant and shall not exceed a total area of 32 square feet.

   b. Periodic Display of Banners and Advertising Flags. Banners and advertising flags are permitted for a period not to exceed 14 consecutive days per calendar quarter. Such Banners and flags shall be located on the exterior building wall of the space to which they are appurtenant, and shall not exceed a total area of 32 square feet.

4. This Section C is not intended to regulate signs on residential properties where such regulation is otherwise preempted by State law.

D. ***Temporary and Limited Duration Signs in Commercial, Downtown Mixed Use, Mixed Use, and Public Facilities/Institutional Districts:***

1. Temporary Signs in Commercial, Mixed Use, and Public Facilities/Institutional Districts:

a. Freestanding Temporary Signs are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:
   i. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage. No Temporary Signs may be installed 30 days prior to the installation of a new sign.
   ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   iii. Height: Height: Each sign shall have a maximum height of six (6) feet.

b. Wall mounted Temporary Signs are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:
   i. Duration and Number: A single wall mounted Temporary Signs may be displayed for a maximum duration of 30 consecutive days with twelve (12) signs permitted per one year period per tenant or occupant.
   ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.

2. Limited Duration Signs are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:
   a. Duration and Number: Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year per street frontage.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Each sign shall have a maximum height of six (6) feet.
   d. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.

E. ***Other Non-Permanent Signs, Banners, and Flags in Commercial, Downtown Mixed Use, Mixed Use, and Public Facilities/Institutional Districts.*** Other non-permanent signs, banners, and advertising flags are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:

1. *Additional Temporary Signs Related to Construction Projects that Reduce Accessibility.*

   a. *Purpose.* During periods of construction activity that reduce accessibility to non-residential properties, owners of affected properties may need special signage to identify and to direct customers safely to their businesses. The City will also have a need for identification of traffic routes, parking areas and special events in the impacted area. The purpose of the Section is to allow increased temporary signage opportunity that is not otherwise

allowed in this Chapter during a project of impact, as defined by City Council action. This Section will allow signs designed and located in such a manner as to maximize their effectiveness while minimally affecting construction activity and detracting from the appearance of the City.

b. *Properties Affected.* By Resolution, the City Council shall establish the specific properties subject to the rights and restrictions of this Section, as identified on a map that will be attached to said Resolution as an Exhibit, and the duration of those rights and restrictions. The duration shall be generally from the commencement of construction until construction is completed, so that full vehicle and pedestrian access is restored to a majority of the properties on the corresponding map.

c. *Permits Required.* A building permit must be applied for and issued for any sign allowed subject to this Section. The sign shall display a current City decal issued with the building permit.

d. *Sign Removal.* All signs installed pursuant to this Section must be removed no later than thirty (30) days after the City informs each permitee that the sign must be removed as set forth by the terms of the Resolution specified in Section 4.412.E.1.b.

e. *Signs Allowed.* Notwithstanding sign regulations herein to the contrary, signs deviating from those otherwise allowed, whether in number, size, or placement, may be considered through the building permit application process. In addition to all other customary building permit reviews for temporary signs, any sign sought to be approved pursuant to this Section shall be approved by the Community Development Director. Under certain conditions, the Community Development Director may allow the following:

(1) signs placed in the public right-of-way if no opportunity exists to display a sign on the premises.

(2) signs on public property, but not affixed to light poles, utility poles, traffic control devices, or informational signs.

(3) off-premises signs, in reasonable proximity to the business being advertised.

f. *Sign Size and Placement.*

(1) Sign size shall not exceed 32 square feet.

(2) Signs cannot block visibility for vehicles, bicycles or pedestrians or of other business signage.

(3) Signs shall not obstruct more than 50 percent of a window

(4) Signs shall not interfere with construction activity

g. *Right-of-Way Placement.* Signs may be placed on a public sidewalk in the DMU District only:

(1) Pursuant to the issuance of a City license,

(2) Subject to all requirements for licensing, insurance and indemnification of the City contained in Title 3 Chapter 21 of the City Code.

h. *Display.* Signs not permanently affixed to a building or securely anchored in the ground shall be removed:

(1) When the business is not open for customers.

(2) When the National Weather Service issues a high wind warning, a tornado or severe thunderstorm watch or warning.

(3) From public sidewalks during an accumulating snowfall event.

i. *Construction and Maintenance.* Signs shall be:

(1) Constructed of exterior grade, rigid, weather resistant and durable materials,

(2) Of sufficient weight and durability to insure the sign remains in place during normal weather conditions, and

(3) Maintained in a professional manner free of chipping paint, cracks, gouges, loss of letters, and similar defects.

j. *Elements Prohibited on Signs Pursuant to This Section.* The following shall be prohibited:

(1) Any form of internal or external illumination, including flashing, blinking or rotating lights;

(2) Animation;

(3) Reflective materials;

(4) Attachments, including, but not limited to, sandbags or other items to hold a sign in place, balloons, ribbons, flags, speakers, other copy or graphics, etc.

k. *Clearance for Pedestrians*. A clear pedestrian access path shall be maintained as follows:

(1) Public Sidewalks. A minimum of 4 feet.

(2) Private Walkways. A minimum of 3 feet.

2. *Grand Opening and Re-Opening Signs.* Grand opening and re-opening signs may be allowed as follows:

a. Building permits shall be required for all signs displayed pursuant to this section; all or several signs can be proposed in a single building permit application.

b. Signs may be displayed for no more than 30 days before the opening or re-opening after completion of an addition or renovation to the building in which the business is located, when such improvement has been issued a building permit by the City.

c. Signs may be displayed for a period not to exceed ninety (90) days. This ninety (90) day period shall begin with the earliest installation date established with issuance of the first grand opening or re-opening sign building permit. Subsequent building permits issued for grand opening or re-opening signs for the same business shall allow sign display only during the same ninety (90) day period established by issuance of the first grand opening or re-opening sign building permit.

d. Allowed signs include, but are not necessarily limited to, banners, flags, balloons, streamers, and other means to advertise the opening of the operation, subject to the approval of the Community Development Director and limitations imposed for the protection of the public health, safety and welfare. Signs that flash, blink, or are animated, or contain any moveable parts, whether moved by mechanical means or by a person, or designed to move by forced air, are prohibited.

e. Signs may be displayed on the property occupied by the business only, or on property that is part of an approved Planned Development that includes the subject business when written consent from the owner of the other property is accepted as part of the approved building permit(s).

f. Signs shall be placed in a manner to preserve vehicle and pedestrian access and public safety, as determined by the Community Development Director.

F. *Temporary and Limited Duration Signs in Employment Districts:*

1. Freestanding Temporary Signs are permitted in Employment Districts as follows:
   a. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Height: Each sign shall have a maximum height of six (6) feet.
2. Wall mounted Temporary Signs are permitted in Employment Districts as follows:
   a. Duration and Number: Wall mounted Temporary Signs may be displayed for a maximum duration of 30 consecutive days with twelve (12) signs permitted per one year period per tenant or occupant.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Height: Each sign shall have a maximum height of six (6) feet.
3. Limited Duration Signs are permitted in Employment Districts as follows;
   a. Duration and Number: Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year per street frontage.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Each sign shall have a maximum height of eight (8) feet.
   d. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412(b).

G. ***Other non-permanent signs, Banners, and Flags in Employment Districts.***

1. *Initial Display of Banners and Advertising Flags.* Banners and advertising Flags are permitted once during the first year of operation of a use for a period not to exceed 90 consecutive calendar days and commencing not earlier than 30 days prior to the first day of operation of the use. Such Banners and Flags shall be located on the exterior building wall of the tenant space to which they are appurtenant and shall not exceed a total area of:

   a. 32 square feet for occupancies up to 25,000 square feet; or

   b. 64 square feet for occupancies greater than 25,000 square feet.

2. *Other Display of Banners and Advertising Flags.* Banners and advertising Flags are permitted for a period not to exceed 30 consecutive days per calendar year. Such Banners and Flags shall be located on the exterior

building wall of the space to which they are appurtenant, and shall not exceed a total area of:

a. 32 square feet for occupancies up to 25,000 square feet; or

b. 64 square feet for occupancies greater than 25,000 square feet.

H. ***Temporary and Limited Duration Signs in the Downtown Mixed Use District:***

1. Temporary Signs and Limited Duration Signs in Downtown Mixed Use District:
   a. Freestanding Temporary Signs are permitted in Downtown Mixed Use Districts as follows:
      i. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage.
      ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
      iii. Height: Height: Each sign shall have a maximum height of six (6) feet.
   b. Wall mounted Temporary Signs are permitted in Downtown Mixed Use Districts as follows:
      i. Duration and Number: Wall mounted Temporary Signs may be displayed for a maximum duration of 30 consecutive days with twelve (12) signs permitted per one year period per tenant or occupant.
      ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
      iii. Height: Each sign shall have a maximum height of six (6) feet.
2. Limited Duration Signs are permitted in Downtown Mixed Use Districts as follows:
   a. Duration and Number: Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year per street frontage.
   b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   c. Height: Each sign shall have a maximum height of six (6) feet.
   d. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.
3. Other non-permanent signs, Banners, and Flags are permitted in DMU Districts pursuant to the Commercial regulations in 4.412. E.

I. ***Temporary and Limited Duration Signs in Parks and Open Space Districts:***

1. Temporary Signs:

a. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage. No Temporary Signs may be installed 30 days prior to the installation of a new sign.
b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
c. Height: Height: Each sign shall have a maximum height of six (6) feet.

2. Limited Duration Signs:
   a. One (1) Limited Duration Sign is permitted per property in Parks and Open Space District. One additional sign may be permitted per 300 feet of frontage.
   b. Limited Duration signs may be displayed up to a maximum duration of 180 days, with one (1) posting permitted per year.
   c. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
   d. Height: Each sign shall have a maximum height of six (6) feet.
   e. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.

Chapter 4.5: Supplemental Use Regulations

Sections:

4.501 Applicability
4.502 Home Occupations
4.503 Child Day Care, Home Occupation
4.504 Group Homes for Persons with Disabilities
4.505 Religious Assembly
4.506 Drive-Through Aisles
4.507 Animal Services
4.508 Sexually Oriented Businesses
4.509 Temporary Uses
4.510 Temporary Structures
4.511 Model Home Complexes
4.512 Vehicle and Equipment Sales, Leasing and Services
4.513 Outdoor Seating Areas
4.514 Abandoned Drive-Through Facilities
4.515 Cannabis Business Establishments
4.516 Miscellaneous Provisions
4.517 Truck and Semi-trailer Storage Lots

4.501 Applicability

In order to mitigate the potential adverse impacts of certain uses, supplemental regulations are provided in addition to the regulations set forth in Chapter 2.

4.502 Home Occupations

Home Occupations shall comply with the following regulations:

A. ***Incidental to Principal Residential Use.*** A Home Occupation use is incidental to the principal use of the dwelling unit for residential purposes.

B. ***Location.*** Other than Home Occupation Day Care, a Home Occupation use may only be conducted within the dwelling unit or an accessory structure.

C. ***Employees***

1. Other than family members residing within the dwelling unit located on the lot or parcel, there shall be no other employee working at the home occupation.

2. The lot or parcel shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. ***Exterior Appearance***

1. The residential character of the property shall be maintained. There shall be no signs, display of merchandise or stock in trade, outdoor storage of materials, or other exterior indication of a home occupation.

2. When a Home Occupation use is conducted within any garage, the doors to the garage shall remain closed.

3. Home Occupation use shall not result in any structural alterations or additions to a building that will change its primary use or building code occupancy classification.

E. ***Storage of Hazardous Materials***. On-site storage of hazardous materials including toxic, explosive, noxious, combustible, or flammable materials beyond those normally incidental to residential use is prohibited.

F. ***Neighborhood Impacts.*** A Home Occupation use shall not produce noise, odors, vibrations, glare, dust, fumes, or electrical interference so as to be disruptive to the residential neighborhood.

G. ***Traffic Generation.*** A Home Occupation use shall not generate car or truck traffic in greater volume than that normally occurring in the residential district in which the home occupation is located.

H. ***Parking***. Any parking for a Home Occupation use shall comply with the requirements of Chapter 4.2: Off-Street Parking and Loading Regulations.

I. ***Licensing.*** Home Occupations shall comply with applicable licensing requirements.

4.503 Child Day Care, Home Occupation and Day Care Home

Child Day Care, Home Occupation and Day Care Home uses shall comply with the following regulations:

A. ***Incidental to Principal Residential Use.*** A Child Day Care, Home Occupation or Day Care Home use is incidental to the principal use of the dwelling unit for residential purposes.

B. ***Employees.*** Other than family members residing within the dwelling unit located on the lot or parcel, there shall be no employee working at the Child Day Care, Home Occupation or Day Care Home use.

C. ***Exterior Appearance and Structural Alterations***

1. The residential character of the property shall be maintained. There shall be no signs, outdoor storage of materials, or other exterior indication of a Day Care, Home Occupation or Day Care Home use.

2. A Child Day Care, Home Occupation or Day Care Home use shall not result in any structural alterations or additions to a building that will change its primary use or building code occupancy classification.

3. Existing garages, carport structures, or driveways shall not be expanded, enclosed, displaced, or otherwise modified for the purpose of accommodating the Child Day Care, Home Occupation or Day Care Home use.

4. Any permitted expansion, remodeling, or other modification of a dwelling unit shall comply with all applicable City codes without requiring a variance or relief from standard requirements for the zoning district within which the dwelling unit is located.

D. ***Screening.*** All outdoor recreation areas shall be completely screened and enclosed by a 6 foot high solid fence with solid self-closing and self-latching gates.

E. ***Separation.*** The minimum separation between Child Day Care, Home Occupation or Day Care Home uses on the same street shall be 300 feet, as measured from the closest property lines.

F. ***Neighborhood Impacts.*** A Home Occupation use shall not produce noise, odors, vibrations, glare, dust, fumes, or electrical interference so as to be disruptive to the residential neighborhood.

G. ***Traffic Generation.*** A Home Occupation use shall not generate car or truck traffic in greater volume than that normally occurring in the residential district in which the home occupation is located.

H. ***Parking***. Any parking for the Child Day Care, Home Occupation or Day Care Home use shall be on site or on the street adjacent to the lot or parcel, and shall comply with the requirements of Chapter 4.2: Off-Street Parking and Loading Regulations.

I. ***Licensing.*** The Child Day Care, Home Occupation or Day Care Home use shall comply with applicable licensing requirements.

4.504 Group Homes

A. ***Purpose***. The purpose of these regulations is to permit persons with disabilities to reside in single family residential neighborhoods in compliance with the Fair Housing Act, while preserving the residential character of the neighborhood.

B. ***Registration Required.*** A completed registration form shall be submitted to the Community Development Department on a form established by the Director. Registration shall become effective upon issuance of a Certificate of Occupancy for the group home and shall terminate when the group home use ceases. No registration shall be accepted for a group home that does not comply with the requirements of the Zoning Code.

C. ***Zoning Confirmation.*** Prior to registration, a request for zoning confirmation may be submitted to the Community Development Department to confirm that the proposed location of the group home is permitted under this section.

D. ***Standards.*** Group Homes for persons with disabilities shall be located, developed, and operated in compliance with the following standards:

1. *Separation.* The minimum separation between group homes shall be 1,200 feet, as measured from the closest property lines. No separation is required when group homes are separated by a utility right-of-way at least 50 feet in width, or by an arterial street, a river, or railroad right-of-way

2. *Occupancy.* The number of residents, excluding staff, shall not exceed 10.

3. *Exterior Appearance.* There shall be no sign or other exterior indication of a group home visible from a street.

4. *Compliance with all Applicable Building and Fire Safety Regulations.* If a group home has one or more non-ambulatory residents, building code requirements in addition to those applicable to group homes with no non-ambulatory residents shall apply.

5. *Licensing.* Group Homes for persons with disabilities shall comply with applicable licensing requirements.

6. *Parking.* Any parking for the group home shall be on site or on the street adjacent to the lot or parcel, and shall comply with the requirements of Chapter 4.2: Off-Street Parking and Loading Regulations.

7. *Tenancy.* No group home shall house any person whose tenancy may constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.

E. ***Additional Requirements of State Law.*** Notwithstanding the foregoing, if the State has adopted laws or rules for the regulation of a specific type of home, then any such State law or rule shall apply in addition to the conditions listed herein and shall preempt any conflicting condition listed herein.

F. ***Request for Accommodation.*** If a group home owner believes any requirement of the Zoning Code prevents the establishment of a group home in an economically viable manner, the owner shall submit to the Planning and Zoning

Officer a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the Planning and Zoning Officer to make an individualized determination of the group home's needs, to address the City's safety and welfare concerns, and to assure compliance with this section. The Planning and Zoning Officer shall review the written request and determine:

1. Whether an accommodation should be made pursuant to the requirements of the Federal Fair Housing Act; and

2. If so, the nature of the accommodation taking into consideration the requirements of the Federal Fair Housing Act, public safety and welfare concerns, and the residential character of the neighborhood.

The accommodation shall be made only to the extent necessary to comply with the Fair Housing Act.

4.505 Religious Assembly

Religious assemblies are not exempt from the requirements of the Zoning Code. If a religious assembly use believes any requirement of the Zoning Code imposes a substantial burden on its exercise of its religion, the religious assembly use shall submit to the Planning and Zoning Officer a written statement as to why any requirement imposes a substantial burden on its exercise of religion and a description of any requested accommodation. The Planning and Zoning Officer shall review the statement and determine:

A. Whether the proposed use is a religious assembly use under the Religious Land Use and Institutionalized Persons Act;

B. Whether the requirement imposes a substantial burden on the exercise of religion by the religious assembly use;

C. If the requirement imposes a substantial burden, whether the requirement furthers a compelling governmental interest of the City, and if so, whether it is the least restrictive requirement necessary to further that compelling governmental interest; and

D. The nature and extent of any accommodation, waiver, or adjustment to a requirement of the Zoning Code, if any.

4.506 Drive-Through Aisles

Drive-through aisles shall be located at least 100 feet from a single family or multi-family lot or parcel or an area designated as Single Family or Multi-Family Residential use in the Comprehensive Plan. This distance may be reduced by:

A. The width of a recorded open space tract on an adjacent parcel; or

B. The width of an adjacent street.

In no event shall the required building setback for the district be reduced.

4.507 Animal Services

Animal services shall comply with the following standards:

A. ***Setbacks.*** Outdoor runs and exercise areas shall be located at least 100 feet from a single family or multi-family lot or parcel or an area designated as Single Family or Multi-Family Residential use in the Comprehensive Plan. Interior boarding structures shall be located a minimum of 25 feet from any property line.

B. ***Fencing.*** Outdoor runs and exercise areas shall be enclosed by a minimum 6 foot fence.

C. ***Prohibitions.*** Outdoor boarding of animals other than livestock is prohibited.

4.508 Sexually-Oriented Businesses

Sexually-oriented businesses shall comply with Batavia City Code Title 3, Chapter 17: Sexually Oriented Businesses.

4.509 Temporary Uses

Temporary uses shall be located and operated in compliance with the following standards:

A. ***Table of Temporary Uses.*** Temporary uses are limited to the times identified in Table 4.509: Temporary Uses:

Table 4.509: Temporary Uses

Use Classification	Time Duration (days)	Frequency of Use	Interval Between Uses (days)
Carnival, Festival	Special Event Permit – See City Code Title 3		
Circus			
Garage Sale	3	4 / year	30
Farmers' Market	3	Once Weekly	4
Haunted House	45	1 / year	--
Seasonal Sales	60	3 / year	14
Non-Seasonal Sales, Swap Meet, Flea Market and Auction, Outdoor	10	4 / year	14

B. ***Permits.*** Temporary uses shall obtain applicable fire and building permits and sales tax licenses prior to commencement of activities.

C. ***Standards.*** Temporary uses shall be located and developed in compliance with the following standards:

1. *General*. Other than Garage Sales, the area devoted to the Temporary Use shall be located on the subject property to retain existing pedestrian and vehicle movement throughout the site. If the Temporary Use is to be located in the parking lot of the property, required accessible parking shall be maintained.

2. *Setbacks*. Other than Garage Sales, temporary uses shall be set back a minimum of 20 feet from any adjacent, occupied residential lot or parcel, and a minimum of 5 feet from any street or parking aisle.

3. *Structures.* As part of the building permit application for structures, a site plan shall be submitted verifying that proposed conditions meet the requirements of this Section.

4. *Signage*. All signage shall comply with the regulations set forth in Chapter 4.4: Sign Regulations.

5. *Restoration of Site*. When the temporary use is discontinued the site and any affected structures shall be returned to their original condition.

6. *Garage Sales*. Tents associated with garage sales:

   a. Shall be erected no earlier than 2 days before the start of the garage sale.

   b. Shall be removed no later than 1 day after the end of the garage sale.

   c. Shall not cover more than 60% of the width of the property, nor shall it be closer to the side property line than the required side setback area, unless it is covering a driveway in the side setback area.

D. ***Additional Requirements***. Adequate sanitation, water, traffic control, parking, security, and public health measures shall be provided for all temporary uses.

4.510 Temporary Structures

A. ***Construction Trailers.*** Construction trailers are permitted only on a lot or parcel during construction undertaken pursuant to a valid building permit. Construction trailers may be occupied for office or security purposes, or may be used for storage of equipment and material used in construction on the site. Temporary construction trailers shall be located and developed in compliance with the following standards.

1. *Setbacks.* Setbacks for construction trailers shall comply with the development regulations for the zoning district.

2. *Surfacing.* The area of the construction trailer, including parking areas, access points, aisles, driveways, and travel ways, shall be surfaced with gravel, crushed rock or other approved dust free material.

3. *Signage.* In accordance with Section 4.402.P.1, the parking of a vehicle, trailer or other device marked or unmarked which is parked in such a manner that it is used principally as a portable sign is prohibited.

B. ***Sales Trailers.*** Sales trailers, including modular offices, used for the sale and lease of residential and nonresidential real estate, memberships, and similar activities, are permitted only on a lot or parcel during construction undertaken pursuant to a valid building permit. Temporary sales trailers shall be located and developed in compliance with the following standards.

1. *Setbacks.* Setbacks for sales trailers are set forth in the development regulations for the zoning district.

2. *Surfacing.* Unless otherwise required by the Fire Marshal, the area of the sales trailer including parking areas, access points, aisles, driveways, and travel ways shall be surfaced with a minimum of a 4 inch-thick road base on compacted soil with dust palliative to support emergency apparatus and to reduce particulate matter. Accessible parking shall meet all City and state requirements.

3. *Parking.* Any parking for the use shall be on site and comply with the requirements of Chapter 4.2: Off-Street Parking and Loading Regulations.

4. *Signage.* All signage shall comply with the regulations set forth in Chapter 4.4 Sign Regulations.

C. ***Portable Temporary Storage Containers.*** Portable Temporary Storage Containers are permitted only for the purpose of storage of equipment, supplies, or similar materials:

1. *Residential Zoning Districts.* Portable temporary storage containers are allowed in residential districts on zoning lots that contain single and two family dwellings. One container is allowed for no more than 31 consecutive days, 3 times per calendar year.

2. *Commercial, Employment, Parks and Open Space, Public Facilities and Institutional and Downtown Mixed Use and Mixed Use Districts.* Portable temporary storage containers are prohibited in these districts except on zoning lots that contain single or two family dwellings.

3. *Building Permit.* No building permit is required.

4. *Location.* The container shall be placed on a driveway or in the interior side or rear yard.

5. *Front and Corner Side Yard Restrictions.* When placed on the driveway within the front or corner side yard area, the container shall be located so that pedestrian and vehicular traffic is not obstructed and so that the view of an operator of a motor vehicle entering or exiting a right of way is not obstructed.

6. *Size.* The container shall be a maximum of 8 feet in width, 16 feet in length, and 8 feet in height.

7. *Hazardous Materials.* The container shall not be used for the storage of hazardous, flammable or toxic materials.

D. ***Classroom Structures.*** Temporary classroom structures are permitted as an expansion of an existing Religious Assembly or School use by the issuance of an Administrative Use Permit (AUP), pursuant to Chapter 5.4: Use Permits. The AUP shall be issued only when the findings identified in Section 5.403: Required Findings and these additional findings are met:

1. The temporary structure is located on the same lot or parcel as the principal use;

2. The temporary structure shall comply with all development standards and use regulations for the district;

3. There is a valid approved design review plan for the property identifying a location for a permanent classroom;

4. The design review approval is for the principal structure, an expansion of the principal structure or a related accessory structure; and

5. The location for the temporary classroom structure does not conflict with the location for the permanent facility.

E. ***Religious Assembly Structures.*** Temporary structures for Religious Assembly uses are permitted as an expansion of an existing Religious Assembly use by the issuance of an AUP, pursuant to Chapter 5.4: Use Permits. The AUP shall be issued only when the findings identified in Section 5.403: Required Findings and these additional findings are met:

1. The temporary structure is located on the same lot or parcel as the principal use;

2. The temporary structure shall comply with all development standards and use regulations for the district;

3. There is a valid approved design review plan for the property identifying a location for the permanent structure;

4. The design review approval is for the principal structure, an expansion of the principal structure or a related accessory structure; and

5. The location for the temporary Religious Assembly structure does not conflict with the location for the permanent facility;

F. ***Tents and Temporary Accessory Storage Structures***

1. *Commercial Zoning Districts*. Tents are allowed in commercial districts only in conjunction with an allowed temporary use.

2. *Residential Zoning Districts*. Tents are allowed in residential districts for no more than 7 consecutive days, two times per year.

3. *Public Facilities and Institutional, Downtown Mixed Use, Mixed Use, Parks and Open Space Zoning Districts*. Tents are allowed in conjunction with an allowed temporary use or for no more than 7 consecutive days.

4. *Employment Districts.* Temporary Accessory Storage Structures are allowed in the Light and General Industrial Districts, as follows:

   a. *Number*. One Temporary Accessory Storage Structure is permitted on a Zoning Lot containing a Principal Structure.

   b. *Location*. A Temporary Accessory Storage Structure shall be located in conformance with the required setbacks and shall not be located in required landscape areas and or between the Principal Structure and the street. A Temporary Accessory Storage Structure shall not be placed on required parking spaces.

   c. *Duration*. A Temporary Accessory Storage Structure may remain in place for a period not to exceed 90 days. The site must be free of an Accessory Storage Structure for 90 consecutive days before a building permit may be issued for a Temporary Accessory Storage Structure.

   d. *Size.* Each Zoning Lot shall be permitted a minimum Temporary Accessory Storage Structure size of 1,000 square feet. The maximum permitted Temporary Accessory Storage Structure size shall not exceed 5% of the square footage of the principal structures.

4.511 Model Home Complexes

Model home complexes are permitted for the initial sale of homes within a recorded subdivision or residential condominium development.

A. ***Location.*** The model home complex shall be located within a subdivision where the model homes are currently being constructed. The model home complex may be used to market homes for sale within the same Planned Development, subject to approval by the Director.

B. ***Design Review Required.*** All model home complexes shall obtain administrative design review approval prior to issuance of a building permit for any unit within the complex.

C. ***Opening.*** An approved model home complex may be open for use when all required improvements have been installed or constructed, inspected, and a Certificate of Occupancy issued.

D. ***Termination.*** The sales office use shall be terminated, all model home complex units converted to residential occupancy standards, all exterior improvements unique to the complex removed, all signage removed and a final inspection completed on all model complex units prior to residential occupancy of the sales office unit.

E. ***Parking.*** The model home complex parking area shall be constructed of concrete, masonry, asphalt or other approved dust free surface. Accessible parking shall meet all accessibility requirements, including a paved surface, signage and connection to the model complex by an ADA compliant pathway.

F. ***Signage.*** Signage shall comply with the requirements of Chapter 4.4: Sign Regulations.

G. ***Residential Occupancy Prohibited.*** No unit in a model home complex shall be occupied as a residential unit until fully converted to residential occupancy standards and a certificate of occupancy has been issued.

H. ***Improvements Required.*** All model home complex sales offices and parking areas shall have access from a paved street. Pedestrian ways shall be paved.

4.512 Vehicle and Equipment Sales, Leasing and Services

A. ***Fueling Facilities***

1. *Fuel Canopies*

   a. The clear height of a canopy over fuel pumps shall be a minimum of 13'-6" and shall not exceed 14'-6". Clearance height shall be measured from finished grade to the bottom of the fuel canopy fascia.

   b. Any fuel pump canopy shall be a minimum of 50 feet from property designated for residential use in the Comprehensive Plan.

2. *Fueling Facility Abandonment.* All Fueling Facility structures and above ground tanks that are unused and/or vacant for 1 year or more are assumed to be abandoned. Abandoned structures and facilities, including canopies, pumps, pump islands, bollards, lights, and signs relating to the abandoned fueling facility use shall be removed within 90 days from the date a notice of abandonment is mailed to the property owner.

3. *Fueling Facility Reuse.* Fueling Facility buildings that are occupied with a use that does not involve the dispensing of fuel shall remove all canopies, pumps, pump islands, bollards, lights and signs relating to the abandoned fueling facility use prior to occupancy of the building.

B. ***Service Bays***

1. No bay or roll-up doors or similar service openings shall be located within 50 feet of property designated for residential use in the Comprehensive Plan.

2. Service bays located within 100 feet of property designated for residential use in the General Plan shall not face the adjacent residential property.

3. All service activities shall be conducted within the service bays. No used or discarded vehicle parts, equipment, or disabled, junked, or wrecked vehicles may be located outside of an enclosed building.

C. ***Secure Vehicle Access Points*.** Each secure vehicle access point to a parking or storage area shall be set back a minimum of 50 feet from the right-of-way.

4.513 Outdoor Seating Areas

A. ***Public Rights of Way***. Subject to applicable provisions of the Batavia Liquor Code, outdoor seating areas in public rights of way in conjunction with an Eating and Drinking Establishment shall require a license agreement with the City.

B. ***Private Property.*** Outdoor seating areas on private property are permitted in conjunction with an Eating and Drinking Establishment.

4.514 Abandoned Drive-Through Facilities

A. All drive-through facility structures, including signs and menu boards, that are unused and/or vacant for 1 year or more are assumed to be abandoned. Abandoned facilities shall be removed within 90 days from the date a notice of abandonment is mailed to the property owner.

B. Following removal of structures pursuant to the above section, the site shall be restored, landscaped and maintained in a sightly condition, free of weeds and debris.

4.515 Cannabis Business Establishments

A. The purpose of these regulations is to allow for the production, processing, transportation and dispensing of cannabis in compliance with State law and with other requirements of this Title.

B. Applicability. This section shall apply to all Cannabis Business Establishment Uses in all Zoning Districts of the City of Batavia.

C. Prohibition of Consumption. No Cannabis Business Establishment shall allow or facilitate the consumption or use of cannabis, cannabis infused products, or other items containing THC or permitted by the Cannabis Regulation and Tax Act on the premises of the use or adjacent right-of-way.

D. Location:

1. Recreational and Medical Cannabis Dispensaries shall not be located within 500 feet of the following locations:

    a. the perimeter of school grounds

    b. a child care center

    c. a public park

    d. a public library

    e. a religious assembly

2. Recreational and Medical Cannabis Dispensaries shall not be located within 1,500 feet of another Cannabis Dispensary.

3. Cannabis Business Establishments Other Than Recreational and Medical Cannabis Dispensaries shall not be located within 500 feet of any residential zoning district or residential use.

E. Hours of Operation. Notwithstanding other regulations in this Title to the contrary, Recreational Cannabis Dispensaries and Medical Cannabis Dispensaries shall be closed for business between 10:00 p.m. and 6:00 a.m.

F. Odors. No odors from processes, products or other sources shall be detectable at the property line.

G. Noise. Noise levels, as defined and measured under Section Title 4, Chapter 6, Section 4 of the Batavia Municipal Code, shall not exceed 60 decibels during daytime hours and 50 decibels during evening hours, regardless of the adjacent use.

H. Signage and Display. No Cannabis or cannabis paraphernalia shall be visible from outside of the premises, including depictions on signage.

I. Additional Materials. The applicant shall supply, upon request for a Zoning Application all materials provided to the State of Illinois for licensing, including, but not limited to:

1. Security Plan

2. Facility Ventilation Plan, for any non-dispensary use.

3. Operation Procedures

4. Disposal Plan, including disposal of cannabis materials

4.516 Miscellaneous Provisions

A. ***Caretaker.*** A recreational vehicle is permitted as a temporary dwelling for a caretaker or security guard on a lot or parcel only during construction undertaken pursuant to a valid building permit.

B. ***Recreational Vehicle Occupancy.*** Except as permitted under Section 4.516.A: Caretaker, no person shall occupy a recreational vehicle parked in a required front or street side setback for more than 72 consecutive hours. No recreational vehicle shall be occupied for more than 30 days as a permanent dwelling unit in any district. The recreational vehicle shall be removed from the premise for an equivalent number of days before a new parking or occupancy period may begin.

C. ***Abandoned Vehicles.*** The parking of an abandoned vehicle is prohibited in all zoning districts.

4.517 Truck and Semi-Trailer Storage Lots

A. ***Applicability.*** The purpose of these regulations is to regulate Truck and Semitrailer Storage lots. Truck and Semitrailer lot uses must comply with this section of the zoning code. This section shall apply to all Truck and Semitrailer storage lot uses in all Zoning Districts.

1. *Location.* Truck and Semi-trailer Storage Lots are prohibited in building setback areas and must be located in the provided rear yard of the property.
2. *Setbacks.* A property used as a Truck and Semi-trailer Storage Lot must be located 1000 feet from a residentially zoned lot or parcel or an area designated for Single Family or Multi-Family Residential use in the Comprehensive Plan.
3. *Building Requirement.* A minimum building of 5,000 square feet must be constructed, with a minimum of 2,500 square feet dedicated to space not used for storage, garages, and or mechanic bays.
4. *Screening*. Truck and Semi-trailer Storage Lots must be completely enclosed by a solid fence or wall a minimum of 8 feet in height. Fences must be installed in accordance with section 4.108 of the Zoning Code.

5. *Pavement.* All areas used for vehicle or trailer parking or maneuvering must be paved with asphalt or concrete and enclosed by a curb consistent with Section 11-5-6 of the Subdivision Code or alternative design approved by the City Engineer.
6. *Parking.* Parking areas shall be designed in accordance with Chapter 4.2 Off-Street Parking and Loading Regulations.
7. *Landscaping*. Landscape requirements are set forth in Chapter 4.2 Off-Street Parking and Loading Regulations and Chapter 4.3 Landscape Regulations of the Zoning Code.
8. *Hours of Operation.* A Truck and Semi-trailer Storage Lot located in the Light Industrial (LI) Zoning District is prohibited from operating between the hours of 10:00 PM and 6:00 AM.
9. *Traffic Study.* A Traffic Study conducted by a Traffic Engineer is required with the establishment, development, or expansion of a Truck and Semi-trailer Storage Lot.
10. *Stored Materials.* The storage of hazardous materials and operating refrigerated trucks and trailers are prohibited on site.
11. *Vehicles and Trailers***.** The storage of inoperable vehicles is prohibited.
12. *Accessory Vehicle Services.* The operation of a Towing Service Establishment is prohibited. All other Vehicle Equipment Sales, Leasing, and Service Uses may be allowed as regulated by Table 2.603.

B. ***City Code Compliance.*** Additional Truck and Semi-Trailer Storage Lot regulations are set forth in the City Code under Title 3 Business and License Regulations.

Chapter 4.6: Nonconforming Uses, Lots, Parcels, Structures and Signs

Sections:

4.601 Purpose
4.602 General Provisions
4.603 Abandonment of Nonconforming Uses
4.604 Repair or Rebuilding of a Damaged Structure

4.601 Purpose

This chapter establishes uniform provisions for the regulation of uses, lots, parcels, structures, and signs that were lawfully established prior to the adoption of the Zoning Regulations, but which would now be prohibited or regulated differently under the requirements of the Zoning Regulations. It is the intent of this chapter to encourage the conversion of nonconforming uses, lots, parcels, structures, and signs to conforming status.

4.602 General Provisions

A. ***Continuation of Nonconforming Uses.*** A nonconforming use may be continued, except as set forth in Section 4.603: Abandonment of Nonconforming Uses.

B. ***Uses in Nonconforming Structures.*** A permitted use may be extended into any portion of a nonconforming structure.

C. ***Expansion of Nonconforming Uses.*** A nonconforming use that occupies any portion of any structure, lot, or parcel shall not be expanded to occupy additional building or land area except as permitted elsewhere in the Zoning Regulations. A nonconforming use shall not be expanded in intensity or hours of operation except as permitted elsewhere in the Zoning Regulations.

D. ***Nonconforming or Substandard Lot or Parcel.*** A nonconforming or substandard lot or parcel that contains at least 80 percent of the minimum lot area required in the district, and has at least 80 percent of all required lot dimensions, may be developed for a use permitted in the district.

E. ***Contiguous Substandard Lots.*** Where two or more contiguous substandard lots, in common ownership, are of sufficient size to constitute a conforming zoning lot, such combination of lots shall be considered one zoning lot.

F. ***Creation of Nonconforming Lots, Parcels, or Bulk Requirements.*** Lots or parcels that conform to the minimum width or area standards and/or contain structures meeting the minimum bulk requirements cannot be divided unless new lots created meet all applicable development standards.

G. ***Nonconforming Structures.*** A nonconforming structure shall not be altered unless required or permitted by law, unless the alteration will result in reduction or elimination of the nonconformity.

H. ***Nonconforming Garages***. Notwithstanding 4.602.G, an existing attached garage on a single family residence that is set back less than 6 feet from the front plane of the house may be expanded provided the expansion is set back a distance equal to or greater than the setback of the existing attached garage, and the expansion conforms to all other building bulk requirements.

I. ***Nonconforming Signs.*** Nonconforming signs shall be governed by Section 4.402.Q: Nonconforming Signs.

J. ***Nonconforming Parking.*** Any change to use of property that would result in a nonconforming supply of parking spaces is prohibited. Nonconforming parking space and access aisle geometry may be continued for expansions to existing parking facilities when such expansion is essentially a continuation of the existing parking field.

K. ***Non-Conforming Structures Not Lawfully Established.*** Structures built without required building permits are not lawfully established and shall not have non-conforming rights as established in this Chapter.

4.603 Abandonment of Nonconforming Uses

A. ***Cessation of Nonconforming Use.*** A nonconforming use shall terminate 1 year following cessation of the use unless the Zoning Officer determines that the nonconforming use has not been abandoned, pursuant to Section 4.603.B: Determination of Status.

B. ***Determination of Status.*** A property owner or the Community Development Director may request the Planning and Zoning Officer to determine if a use has been abandoned. The property owner shall have the burden of establishing intent not to have abandoned the use. The Planning and Zoning Officer shall set forth his decision in a Notice of Decision. The Notice of Decision shall be mailed to the property owner by first class mail within 30 days of the filing of the request.

C. ***Appeal of Planning and Zoning Officer Determination***. The applicant may file an appeal of the Planning and Zoning Officer's determination to the Zoning Board of Appeals within 10 days of the date of mailing of the Notice of Decision.

D. ***Zoning Board of Appeals Hearing***.

1. In its deliberations, the Zoning Board of Appeals shall consider only the applicant's written request, the Planning and Zoning Officer’s decision,

and the Community Development Director's recommendation. No new evidence shall be submitted.

2. The Zoning Board of Appeals shall uphold or reverse the determination of the Planning and Zoning Officer or remand the matter to the Community Development Director to develop additional findings. The Zoning Board of Appeals decision is final.

4.604 Repair or Rebuilding of a Damaged Structure

A. If a nonconforming structure has been damaged so that the cost of repair or rebuilding in compliance with current construction codes is less than 50 percent of the value of the structure prior to the damage, the structure may be repaired or rebuilt. The extent of nonconformity shall not be increased by the repair or rebuilding.

B. If a nonconforming structure has been damaged so that the cost of repair or rebuilding in compliance with current construction codes equals or exceeds 50 percent of the value of the structure prior to the damage, the structure may be repaired or rebuilt, but only in conformance with the Zoning Regulations except as permitted elsewhere in these Zoning Regulations.

C. The value of a structure and costs of repair or rebuilding shall be determined by the Building Commissioner. The Building Commissioner shall consider appraisals, insurance adjuster's estimates, contract amounts, engineer's estimates and similar information.

D. An appeal of the determination of value may be made to the City Council. The decision of the City Council shall be final.

Chapter 4.7: Wireless Communication Facilities

Sections:

4.701 Purpose and Applicability
4.702 Procedures
4.703 Use and Development Regulations
4.704 Additional Development Regulations
4.705 Required Findings
4.706 Miscellaneous Provisions

4.701 Purposes and Applicability

The purposes and applicability of these regulations are as follows:

A. To establish uniform standards and procedures to manage the development, siting, installation, and operation of *Wireless Communication Facilities* (WCFs) in compliance with the Federal Telecommunications Act of 1996.

B. To ensure that WCFs are installed in a manner that will protect and promote public health and safety, preserve the City's character, and minimize adverse visual impacts through careful design, siting, landscape screening, and innovative camouflaging techniques.

C. To ensure that telecommunication providers can deliver services quickly, effectively, and efficiently, while respecting neighborhood character.

D. This Chapter shall apply to all new WCFs and the expansion and/or alteration of any existing WCF.

E. This Chapter shall not apply to those uses set forth in Chapter 4.8: Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities.

4.702 Procedures

A. ***Wireless Communication Facilities, Other than Monopoles***. In accordance with this Chapter and Chapter 5.4: Use Permits, an Administrative Use Permit may be approved for a WCF as specified in Tables 4.703.A: Single Family and Multi-Family Residential, and Downtown Mixed Use Zoning Districts, 4.703.B: Commercial and Office Zoning Districts, 4.703.C: Industrial Zoning Districts & Public Facilities and Institutional Zoning District.

B. ***Wireless Communication Facilities, Alternative WCF Light Pole.*** In accordance with this Chapter and Chapter 5.4: Use Permits, an Administrative Use Permit may be approved for an Alternative WCF Light Pole as specified in Tables

4.703A: Single Family and Multi-Family Residential, and Downtown Mixed Use Zoning Districts, 4.703B: Commercial and Office Zoning Districts, 4.703.C: Industrial Zoning Districts & Public Facilities and Institutional Zoning District.

C. ***Wireless Communication Facility Monopole.*** In accordance with this Chapter and Chapter 5.4: Use Permits, a Conditional Use Permit may be approved for a Wireless Communication Facility Monopole facility as specified in Tables 4.703B: Commercial and Office Zoning Districts, 4.703.C: Industrial Zoning Districts & Public Facilities and Institutional Zoning District.

D. ***Application***. An application for a new WCF, or expansion or alteration of any existing WCF shall be filed in accordance with the application procedures set forth in Section 5.2: Common Procedures. In addition to any other requirements specified, applications shall include the following:

1. *Inventory*. An inventory list and map of existing WCFs operated within 1 mile of the proposed site including specific information as to location, height, carriers, and design of each facility.

2. *Report on Alternatives*. A statement explaining why the WCF is needed at the requested location. If the applicant is seeking to construct a new monopole, the applicant shall explain why co-location or location on another kind of support structure is not feasible, including efforts made to develop such an alternative. If the City has requested that the applicant co-locate its WCF on a site, the applicant shall explain why co-location is not feasible, including efforts made to develop such an alternative.

3. *Facility Plans*:

    a. Dimensioned elevations of the proposed facility, including equipment cabinets and buildings, antennas and fences are required. Elevations shall identify the separation between the proposed WCF and any existing WCFs on the same support structure.

    b. Proposed color and material palette.

    c. A site plan illustrating the separation between the proposed WCF and any existing WCFs on the same site.

    d. Method of screening for mechanical and electrical equipment.

    e. Location and type of lighting fixtures proposed.

    f. Plans for a new monopole demonstrating that the structure will accommodate at least 1 additional WCF.

4. *Photographic Simulation*. For new monopoles, a photographic simulation with a minimum of 4 views of the proposed facility from surrounding properties and streets shall be submitted. Specific locations for the photographic simulation shall be approved by the Planning and Zoning Officer before an application is accepted. A map shall be submitted indicating the locations used for the analysis and their distances from the proposed WCF.

4.703 Use and Development Regulations

A. ***Land Use Regulations***. The land use regulations for each base zoning district in Chapter 2: Land Use Designations, establish the districts in which Wireless Communication Facilities are permitted.

B. ***Regulations.*** The permit type for each facility is established by letter designations as follows: "A" designates uses that require an Administrative Use Permit and "C" designates uses that require a Conditional Use Permit, pursuant to Chapter 5.4: Use Permits. Site development regulations are set forth in Tables 4.703A, 4.703B, and 4.703C. In addition, WCFs are subject to the development regulations set forth in Section 4.704: Additional Development Regulations.

C. ***Residential Zoning Districts.*** WCFs are permitted in single family and multi-family residential zoning districts only on property owned by:

1. A school district, if the primary use of such property is for education;

2. A *Religious Assembly* use, if the primary use of such property is for worship, education or assembly.

Table 4.703A: WCF Site Development Regulations – Single and Multi-Family Residential, and Downtown Mixed Use Zoning Districts

WCF Type	*Maximum Height*	*Minimum Setbacks*	*Use Permit Required*
Existing Vertical Element	Height of existing vertical element	--	A
Existing Vertical Element – Electric Utility Pole	15' above height of pole	--	A
Existing Vertical Element – Recreational Field Light Pole	15' above light array	--	A
Alternative WCF Building Element	Height of building	--	A

D. ***Commercial and Office Zoning Districts.*** WCFs are permitted in commercial and office zoning districts, subject to the following regulations:

Table 4.703B: WCF Site Development Regulations – Commercial and Office Zoning Districts (% = Percent of installation height)

WCF Type	*Maximum Height*	*Minimum Setbacks (Greater of)*	*Use Permit Required*
Monopole			
Single Carrier	90	75' or 110%	C
Two Carriers	120	75' or 110%	C
Three Carriers	150	75' or 110%	C
Existing Vertical Element	Height of existing vertical element	--	A
Existing Vertical Element – Electric Utility Pole	15' above height of pole	--	A
Alternative WCF Building Element	Height of building	--	A
Alternative WCF Structure	45'	75'	C

E. ***Industrial and Public Facilities & Institutional Zoning Districts.*** WCFs are permitted in Industrial and Public Facilities & Institutional zoning districts, subject to the following regulations:

Table 4.703C: WCF Site Development Regulations – Industrial and Public Facilities & Institutional Zoning Districts (% = Percent of installation height)

WCF Type	*Maximum Height*	*Minimum Setbacks (Greater of)*	*Use Permit Required*
Monopole			
Single Carrier	90'	75' or 110%	C
Two Carriers	120'	75' or 110%	C
Three Carriers	150'	75' or 110%	C
Existing Vertical Element	Height of existing vertical element	--	A
Existing Vertical Element – Electric Utility Pole	15' above height of pole	--	A
Existing Vertical Element – Recreational Field Light Pole	15' above light array	--	A
Alternative WCF Light Pole	50'	75' or 110%	A
Religious Assembly	40'	110%	A
Schools			
Elementary	--	--	--
Middle	40'	110%	A
High	40'	110%	A
Public Park	40'	110%	A
Alternative WCF Building Element	Height of building	--	A
Alternative WCF Structure	50'	75'	A
Building Mounted WCF	25' above the highest point of the building	--	A

4.704 Additional Development Regulations

A. Setbacks

1. *Measurement.* Setbacks shall be measured from the boundary of the entire property prior to the WCF application even though the WCF may be sited on one or more smaller individual parcels within a larger lot or parcel.

2. *Residential Setbacks.* No monopole shall be located within 500 feet of a property designated for residential use in the Comprehensive Plan or zoned for residential use. Notwithstanding any setback requirements, Monopoles, Alternative WCF Light Poles and Alternative WCF Structures shall be set back to the maximum extent feasible from property designated for residential use in the Comprehensive Plan or zoned for residential use.

3. *Equipment Cabinets and Buildings.* WCF equipment cabinets and buildings shall comply with the required building setbacks of the base zoning district in which the WCF is located, except as provided for in Section 4.704.A.4.

4. *Setback Exemptions.* The following items are exempt from WCF setback requirements:

   a. WCF antennas mounted on an existing vertical element.

   b. WCF antennas incorporated as a building design element.

   c. Equipment cabinets or buildings located on a utility site.

B. ***Height Measurement***. Unless otherwise set forth in this Chapter, height of WCFs shall be measured from finished grade to highest point of the structure, including antenna and attachments.

C. Support Structures

1. *Alternative WCF Building Element*. Only non-residential buildings shall be used as support structures for a WCF.

2. *Monopole*. Any new Monopole shall be constructed to allow for co-location of at least 1 other similar wireless communication antenna. If constructed to less than the maximum height permitted, the Monopole shall have the capability of having an additional vertical section added.

3. *Alternative WCF Light Pole*. When an Alternative WCF Light Pole replaces one of a group of light poles, its dimensions and appearance shall replicate those of the existing light poles to the maximum extent feasible.

4. *Existing Vertical Element, Recreational Field Light Pole*. When a Recreational Field Light Pole replaces one of a group of light poles, its

dimensions and appearance shall replicate those of the existing light poles to the maximum extent feasible.

5. *Nonconforming Support Structures*. No alteration to a non-conforming support structure shall be made unless required or permitted by law, unless the alteration will result in reduction or elimination of the nonconformity.

D. ***Aesthetics***

1. WCFs mounted on existing vertical elements shall be the smallest antenna and array size feasible, and shall be painted to match the surface color of the element.

2. WCF poles, antennas and appurtenances shall have a non-reflective finish.

E. ***Equipment Cabinets and Buildings***

1. *Screening*

a. Equipment Cabinets and Associated Equipment. Equipment cabinets and associated equipment, including air conditioning units and emergency generators, shall be located within the building or structure upon which antennas are placed, or shall be fully screened from view by a decorative solid fence or a wall equal to or exceeding the height of the cabinets. Gates shall be solid. The exterior of the building, structure or fence shall be landscaped.

b. Equipment Buildings. Equipment buildings shall be screened from view by an 8 foot decorative solid fence. The exterior of the building shall be landscaped.

c. Waiver or Modification of Screening Requirement. If the Planning and Zoning Officer determines that any of the above screening requirements have been met, the screening requirements may be waived or modified.

2. *Height*

a. Equipment cabinets shall not exceed 8 feet in height.

b. Equipment buildings shall not exceed 15 feet in height.

3. *Area*. An equipment cabinet or building may contain an area of up to 300 square feet for a single provider or 600 square feet for multiple providers.

F. ***Fencing and Walls***

1. *Design*. Fencing and walls shall be architecturally compatible with buildings or fencing on the property or adjacent properties.

2. *Height*. Fencing and walls shall not exceed a maximum of 8 feet in height.

3. *Prohibitions*. The use of chain link, woven wire, and similar fence material is prohibited, except at temporary construction sites.

G. ***Lighting.*** Illumination of a WCF, including its components, is prohibited, unless required by the Federal Aviation Administration. A motion-sensor light may be used for security purposes.

H. ***Co-Location.*** The operator of any WCF shall permit co-location of at least one additional WCF on the same support structure or site. Applicants and operators shall share technical information to enable evaluation of the feasibility of co-location. Permit requirements may include permission for an additional operator to install, at their cost, an additional support structure to accommodate co-location. Failure to comply with co-location requirements when feasible as provided for in this Chapter is grounds for denial of a use permit application.

I. ***Maintenance of Legal WCFs.*** Maintenance of legal and conforming WCFs shall not require amendment of a use permit. WCF maintenance is the realignment of antennas, replacement, or repair of a part or portion of a WCF required by ordinary wear, tear, or damage, with like material, size, color, and design. Maintenance of legal and conforming WCFs does not include changing the location, number, color, size, or design of the WCF and its components.

4.705 Required Findings

In addition to the findings required in Section 5.403: Required Findings, the Plan Commission or the Planning and Zoning Officer, in the case of Administrative Use Permits, shall approve, approve with modifications and/or conditions, or deny a use permit after making the additional findings of fact set forth in this section:

A. The proposed WCF conforms with the requirements of this Chapter;

B. The applicant has demonstrated the inability to co-locate the proposed WCF on an existing vertical element; and

C. The visibility of the WCF is reduced to the extent feasible by decreasing its height, increasing its setback, locating it in proximity to other structures, using antenna designs which minimize horizontal projections, and/or constructing it with colors and materials that de-emphasize its visibility.

4.706 Miscellaneous Provisions

A. ***Independent Technical Study.*** Should the Planning and Zoning Officer require additional technical information that cannot be obtained from the applicant, the City may require the applicant to pay the cost of an independent technical study.

B. ***Revocation.*** Failure to comply with co-location requirements as provided for in this Chapter is grounds for revocation of an existing Use Permit pursuant to Section 5.404C: Revocation.

Chapter 4.8: Over-The-Air Reception Devices, Large Satellite Dishes and Amateur Radio Facilities

Sections:

4.801 Purpose
4.802 Applicability
4.803 Use and Development Regulations

4.801 Purpose

The purpose of this Chapter is to:

A. Establish standards for Over-The-Air Reception Devices (OTARD), Large Satellite Dishes and Amateur Radio Facilities;

B. Minimize the visual impact of communication facilities; and

C. Provide opportunities for such communication uses within the City, subject to limits set by federal regulations and case law.

4.802 Applicability

These regulations apply to:

A. Over-The-Air Reception Devices.

B. Large Satellite Dish Antennas.

C. Amateur (Ham) Radio Facilities.

D. Expansion and/or alteration of any such existing facilities.

E. This Chapter shall not apply to Wireless Communication Facilities, set forth in Chapter 4.7: Wireless Communication Facilities.

4.803 Use and Development Regulations

A. ***Land Use Regulations***. The land use regulations for each base zoning district in Division 2: Land Use Designations, establish the districts in which Amateur Radio Facilities, Large Satellite Dish Antennas and Over-The-Air Reception Devices are permitted. Over-the-air reception devices are permitted accessory uses in all base zoning districts, pursuant to the standards set forth in this chapter.

B. ***Over-the-Air-Reception Devices (OTARD) Standards.*** Unless these regulations would cause the installation or use of an OTARD to be unreasonably delayed, prohibited, would cause an unreasonable or increased cost, or would preclude it

from reception of an acceptable quality signal, the following standards shall be met.

1. *Historic Sites*. Prior to installing an OTARD on a site within the Downtown Historic District, a landmark property or on a property listed on or eligible for inclusion on the National Register of Historic Places (National Register), the applicant shall notify the City in writing. The City may impose design restrictions no more burdensome than necessary to preserve the site for eligibility on the National Register. All installations on historic sites are subject to issuance of a certificate of appropriateness from the Historic Preservation Commission prior to issuance of a building permit.

2. *Equal Restrictions*. The City shall not impose any greater restriction on an OTARD than is imposed on the installation, maintenance, or use of other modern appurtenances, devices, or fixtures comparable in size, weight and appearance, or safety risk.

3. *Safety Requirements*. If the antenna will be placed on a mast exceeding 12 feet above the roofline not otherwise requiring a building permit, the applicant shall obtain such permit before installation due to safety concerns posed by wind loads and the risk of fall. Before installation, the applicant shall submit to the City a technical description of the antenna, anchorage features, and mast. If the City determines the mast will pose a safety hazard to persons or property, the City may prohibit installation.

4. *Location*. Antennas shall be located outside of the required front yard.

C. ***Large Satellite Dish Antennas.*** Large Satellite Dish Antennas are subject to the following standards:

1. *General Standards*

   a. The antenna shall be the smallest diameter allowed by current technology to receive or transmit desired communications, but in no case shall exceed a diameter of 10 feet.

   b. Ground-mounted Large Satellite Dish Antennas shall be located in the rear one-half of the lot or parcel.

   c. Roof-mounted Large Satellite Dish Antennas shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the antenna.

   d. Screen fencing shall be architecturally compatible with buildings or fencing on the property.

e. Any portion of the antenna visible from streets or adjacent residential lots or parcels shall be painted a color approved for use on the property. For parcels not having an approved color palette, the color shall be approved by the Planning and Zoning Officer.

2. *Single Family Residential Districts*

a. No more than 1 Large Satellite Dish Antenna may be located on any lot or parcel.

b. Large Satellite Dish Antennas shall be ground-mounted unless there is no feasible ground location on the lot or parcel to receive or transmit desired communications.

c. Ground-mounted Large Satellite Dish Antennas shall be screened from streets and adjacent lots or parcels by a 6 foot high solid fence.

3. *Multi-Family Residential Districts*

a. No more than 1 Large Satellite Dish Antenna may be located on a lot or parcel with fewer than 10 units; no more than 2 large satellite dish antennas may be located on any lot or parcel with 10 or more units.

b. Roof-mounted Large Satellite Dish Antennas shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the antenna.

c. Ground-mounted Large Satellite Dish Antennas shall be screened from streets and adjacent lots or parcels by a 6 foot high solid fence.

4. *Nonresidential Districts*

a. Ground-mounted Large Satellite Dish Antennas shall be screened from view from streets, areas accessible to the general public, and from areas shown for residential use in the Comprehensive Plan. If the Plan Commission, or for Administrative Design Review, the Planning and Zoning Officer, determines that the equipment will only be visible from permanently unoccupied areas, or are already screened from public view, the screening requirement may be waived or modified.

b. The screening method shall be depicted on plans submitted with applications for design review and building permits.

D. ***Amateur (Ham) Radio Facilities.***

1. *Antenna Standards*. Support structures together with antennas shall:

   a. Be limited to a maximum of 75 feet in height above grade, measured at the center point of the highest part of the antenna or mast. This limitation applies to both ground-mounted and building-mounted installations.

   b. For ground-mounted structures, be limited to no more than 2 amateur radio antenna support structures on any lot or parcel of one net acre or less. Parcels of more than one net acre may have 3 ground-mounted amateur radio antenna support structures.

   c. Be located behind the front and corner side setback line, if applicable.

   d. Meet the base setback, exclusive of additional distance for height, for accessory structures in the zoning district where the support structure is located.

   e. Be constructed in accordance with the Batavia Building Code.

2. *Waiver of Standards*. If effective communications cannot be obtained when facilities are in compliance with the regulations set forth herein, the Planning and Zoning Officer may permit a waiver from the height and location requirements of this section.

   a. The waiver request shall:

      (1) Provide technical evidence in the form of a report from a licensed professional engineer familiar with amateur radio operations, or an Extra Class licensed amateur radio operator other than the applicant, that effective communications cannot be obtained by facilities in compliance with the standards; and

      (2) Document the minimum reasonable accommodation, in the form of a waiver from these regulations, required in order to permit effective communications.

   b. If a waiver of the height limit is necessary, the antenna shall be set back from adjacent property lines by a distance established by the Planning and Zoning Officer, but in no case shall the additional setback be greater than one foot for each additional two feet of support structure height.

   c. The decision of the Planning and Zoning Officer shall be issued in the form of a Notice of Decision and include written findings.

Chapter 4.9: Common Area Ownership and Maintenance

Sections:

4.901 Purpose
4.902 Applicability
4.903 Requirement

4.901 Purpose

The purpose of this chapter is to provide for the maintenance and operation of landscaping, open space, private streets, stormwater management facilities, utilities and other facilities held in common for the benefit of private property owners in residential and non-residential developments.

4.902 Applicability

This chapter applies to all residential and non-residential developments where landscaping, open space, recreation facilities, private streets, signs, stormwater management facilities, utilities, and other facilities are held in common ownership.

4.903 Requirement

A. ***Creation.*** A homeowners or property owners association shall be created to maintain and operate landscaping, open space, recreation facilities, private streets, signs, stormwater management facilities, utilities, and other facilities held in common ownership. The documents creating the association shall provide that this obligation continue in perpetuity. Evidence of compliance with this chapter shall be submitted with an application for a final subdivision plat. Evidence of recording of these documents shall be provided to the Director prior to issuance of a building permit.

B. ***Special Service Area.*** The property owner shall consent to the formation by the City of a backup special service area (SSA) as part of the application for a final subdivision plat. The SSA shall not be activated unless the homeowners or property owners association fails to maintain the common area in an appropriate manner so as to endanger the health, safety, welfare or property values of its members.

Chapter 4.10: Small Wind Energy Systems

Sections:

4.1001 Purpose and Applicability
4.1002 Procedures
4.1003 Height and Setback Regulations
4.1004 Additional Development Regulations
4.1005 Removal of Abandoned Systems

4.1001 Purposes and Applicability

The purposes and applicability of these regulations are as follows:

A. To establish uniform standards and procedures to manage the development, siting, installation, and operation of Small Wind Energy Systems (SWES).

B. To ensure that SWES are installed in a manner that will protect and promote public health and safety, preserve the City's character, and minimize adverse visual and noise impacts through careful engineering, design, siting, landscape screening, and camouflaging techniques.

C. To ensure that SWES can efficiently generate electricity while respecting neighborhood character.

D. This Chapter shall apply to all new SWES and the expansion and/or alteration of any existing SWE system.

4.1002 Procedures

A. ***Use Permit Required.*** In accordance with this Chapter and Chapter 5.4: Use Permits, a Conditional Use Permit may be approved for a SWES in any zoning district.

B. ***Application.*** An application for a new SWES, or expansion or alteration of any existing SWES, shall be filed in accordance with the application procedures set forth in Section 5.202: Common Procedures. In addition to any other requirements specified, applications shall include the following:

1. Dimensioned elevations of the proposed facility, including towers, equipment cabinets, buildings and fences.

2. A site plan, drawn to scale, illustrating the location of all proposed facilities, both above and below ground, including the separation between the proposed SWES and any existing structures, overhead wires and trees over 6 inch caliper within 150 feet of the proposed SWES.

3. Method of screening for supporting mechanical and electrical equipment, if any.

4. Location and type of proposed lighting fixtures

5. Proposed colors and materials.

6. Proof of insurance.

4.1003 Height and Setback Regulations

Table 4.1003 SWES Height and Setback Regulations		
SWES Type	**Maximum Height of Tower**	**Minimum Setback of All Structural Elements from Property Lines**
Pole- or tower-mounted, with or without guy wires	50 ft. unless the provided setback allows a taller SWES Tower.	SWES Towers up to 35 ft: 15 ft from property lines; 10 ft to guy wires. SWES Towers 35 ft to 50 ft: 20 ft from property lines; 15 ft. to guy wires. SWES Towers exceeding 50 ft: Setback from all property lines shall be equal to the height of the SWES Tower.
Roof-mounted	15 ft. above roof	10 ft.

4.1004 Additional Development Regulations

A. ***Setbacks for Equipment Cabinets and Buildings.*** SWES equipment cabinets and buildings shall comply with the required building setbacks for accessory structures of the base zoning district where the SWES is located.

B. ***Setback Prohibition.*** No SWES tower shall be located within a required front setback.

C. ***Ground-mounted SWES.***

1. *Clearance.* A ground-mounted SWES shall maintain a 20-foot clearance between the blades and the ground.

2. *Overhang.* No portion of a SWES shall extend over property lines, parking areas, driveways or sidewalks.

3. *Industrial Districts.* In an industrial district all SWES within 200 feet of a residential district or property designated for residential use in the Comprehensive Plan shall be set back a distance of at least 110 percent of the height of the tower and extended blades.

D. ***Roof-mounted SWES.***

1. *Height.* Roof-mounted SWES shall be limited to a height of fifteen feet above the elevation of the installation point.

2. *Access.* Roof-mounted SWES shall have secure access, limited to authorized maintenance and repairs.

E. ***Materials and Colors.***

1. SWES poles and antennas shall have a non-reflective finish, and shall be painted a light neutral color.

2. Equipment cabinets, conduit and associated facilities shall be painted to complement existing structures.

F**.** ***Lighting.*** Artificial lighting of a SWES, including its components, is prohibited. A motion-sensor light may be used for security purposes.

G. ***Automatic Overspeed Controls.*** All SWES shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed to within the design limits of the system.

H. ***Miscellaneous Provisions.***

1. *Certification.* SWES shall be certified under a program recognized by the American Wind Energy Association.

2. *Fencing*. Any fencing shall be architecturally compatible with buildings or fencing on the property or adjacent properties, and shall not exceed a maximum of 8 feet in height.

3. *Signage.* No signage is permitted on any tower or turbine, except that a sign no less than 4 square feet and no more than 6 square feet shall be posted at the base of the pole, tower or entrance to the secure area containing the SWES. The sign shall contain the following:

   a. A "No Trespassing" notice.

   b. A "High Voltage" notice.

   c. The phone number of the property owner or operator to call in case of an emergency.

4. *Connection.* Approval shall be obtained from the City of Batavia Electric division for the connection of the SWES on the property prior to obtaining a building permit.

5. *Tower Access*. A SWES tower shall not be accessible for climbing by unauthorized persons.

6. *Disconnect.* A means of disconnecting the SWES power source in an emergency shall be provided. This equipment shall be located adjacent to the electric meter on residences and near the shunt trip on commercial buildings.

4.1005 Removal of Abandoned Systems

A. ***Notice.*** The City shall send notice by certified mail to the owner of a SWES that has been inoperable for 90 days that the owner has 90 days from the date of the notice to restore the system to operable condition.

B. ***Declaration of Abandonment.*** If the owner of a SWES has received notice under Section 4.1005.A, above, and has not restored the system to operable condition within the 90 day period, it will be declared abandoned. A notice to that effect shall be sent by certified mail to the owner.

C. ***Removal of Abandoned SWES.*** An abandoned SWES shall be removed and the property on which it is located shall be restored to its original condition within 30 days from the date of mailing of the notice of abandonment. A building permit shall be required prior to removal.

Chapter 5.1: Planning Administration

Sections:

5.101 Purpose
5.102 City Council
5.103 Plan Commission
5.104 Zoning Board of Appeals
5.105 Community and Economic Development Director
5.106 Planning and Zoning Officer
5.107 Code Compliance Officer

5.101 Purpose

The purpose of this Chapter is to identify those entities with responsibilities under the Batavia Zoning Code, and to assign duties and responsibilities under this code.

5.102 City Council

All matters under this Zoning Code requiring City Council action shall first be considered by the Community Development Committee and a recommendation shall be made to the City Council. The City Council has the following powers and duties under the Zoning Code:

A. Consider and adopt, reject or modify amendments to the Comprehensive Plan pursuant to the provisions of Chapter 5.8: Amendments to the Comprehensive Plan Text or Map.

B. Consider and adopt, reject or modify annexation of property, rights-of-way and streets pursuant to the provisions of Chapter 5.3: Zoning of Annexed Property.

C. Consider and adopt, reject or modify amendments to the text of the Zoning Code pursuant to the provisions of Chapter 5.7: Amendments to Zoning Code or the Official Zoning Map.

D. Consider and adopt, reject or modify amendments to the Official Zoning Map, pursuant to the provisions of Chapter 5.7: Amendments to Zoning Code Text or the Official Zoning Map.

E. Hear and decide appeals from decisions of the Plan Commission on preliminary subdivision plats, pursuant to the provisions of Title 11: Subdivision Regulations.

F. Consider and approve final subdivision plats and amendments thereto, pursuant to the provisions of Title 11: Subdivision Regulations.

G. Exercise appeal authority as authorized by the Zoning Code.

H. Confirm the appointment of members of the Plan Commission and the Zoning Board of Appeals.

I. Establish a schedule of fees and charges for the various applications and services provided pursuant to the Zoning Code.

J. Revoke Conditional Use Permits pursuant to the provisions of Chapter 5.4: Use Permits.

K. Hear and decide Requests for Reconsideration pursuant to the provisions of Chapter 5.211: Procedure for Appeals.

L. Approve guidelines for the conduct of design review.

5.103 Plan Commission

The Plan Commission (Commission) is established pursuant to the Batavia City Code and the requirements of the Illinois Municipal Code.

A. ***Meetings.*** All meetings of the Commission shall be held according to a schedule established annually by the City Council, and at such other times as the Commission may determine. Except for executive sessions authorized by law, all meetings of the Commission shall be open to the public.

B. ***Proceedings.*** The minutes and records of all Commission proceedings shall be kept and filed as public records in the office of the City Clerk.

C. ***Powers and Duties.*** The Commission shall have the following powers and duties:

1. Recommend to the City Council a Comprehensive Plan and amendments thereto for the development and redevelopment of the City and contiguous unincorporated territory within the City of Batavia planning area or expansion thereof and not included in any other municipality, and to promote the implementation of the Comprehensive Plan.

2. Periodically review progress towards implementation of the Comprehensive Plan and recommend to the City Council changes desired due to new legislation, development trends and changing economic, social and environmental conditions, but not less than every five (5) years.

3. Hold hearings, review and make recommendations to the City Council on applications to amend the Official Zoning Map and provisions of the Zoning Code for conditional use permits, and for preliminary plats of subdivision.

4. Initiate changes to the Official Zoning Map or text of the Zoning Code to insure conformance and consistency with the City's Comprehensive Plan.

5. Prepare and recommend to the City Council plans for specific improvements to implement the Comprehensive Plan.

6. Establish standards of design for subdivisions and for the resubdivision of unimproved land and of areas subject to redevelopment, including requirements for public and private streets, alleys, utility easements, stormwater management facilities, parks, natural areas, schools and other public lands.

7. Recommend to the City Council design guidelines for conducting design review.

8. Review and approve, approve with modifications and/or conditions, or deny applications for design review, pursuant to the provisions of Chapter 5.6: Design Review.

9. Conduct a Public Hearing, review and recommend approval, approval with modifications and/or conditions, or denial of Conditional Use applications, pursuant to the provisions of Chapter 5.4: Use Permits.

10. Revoke Administrative Use Permits pursuant to the provisions of Chapter 5.4: Use Permits.

11. Hear and decide appeals from decisions of the Planning and Zoning Officer on applications for Administrative Use Permits.

12. Review applications for Administrative Use Permits upon referral by the Planning and Zoning Officer pursuant to the provisions of Chapter 5.4: Use Permits.

13. Recommend to the City Council approval, including with or without modifications and/or conditions, or recommend denial of preliminary subdivision plats, pursuant to the provisions of Title 11: Subdivision Regulations.

14. Inform the community, other public agencies and private organizations about the activities of the Commission and the benefits of good planning.

15. Cooperate with municipal, county and regional planning commissions and other agencies or groups to further the local planning program and to assure harmonious and integrated planning for the area.

16. Recommend to the City Council amendments and modifications to the Subdivision Regulations.

17. To exercise such other powers as State law permits, as directed by the City Council.

5.104 Zoning Board of Appeals

The Zoning Board of Appeals of the City of Batavia (ZBA) is established pursuant to Illinois Compiled Statutes.

A. ***Creation, Membership and Officers.*** The seven members of the Plan Commission shall serve as the Zoning Board of Appeals. One of the members of the ZBA shall be named by the Mayor as chair at the time of his or her appointment. The chair shall serve for two years, at which time the ZBA shall elect a chair from its membership. The ZBA shall elect a vice-chair from its membership. Officers shall serve two year terms, and shall not serve for more than three consecutive terms.

B. ***Meetings.*** All meetings of the ZBA shall be held at such times as are necessary for the conduct of business. Except for executive sessions authorized by law, all meetings of the ZBA shall be open to the public.

C. ***Proceedings.*** The ZBA shall adopt rules and regulations to govern its proceedings. The minutes and records of all ZBA proceedings shall be filed as public records in the office of the City Clerk.

D. ***Powers and Duties.*** The ZBA has the following powers and duties:

1. Hear and recommend for approval, recommend approval with modifications and/or conditions or recommend denial of applications for variances; and

2. Hear and decide appeals from a decision, determination, or interpretation made by the Planning and Zoning Officer and Community and Economic Development Director in the administration and enforcement of the Zoning Code pursuant to Section 5.210: Procedures for Appeals.

5.105 Community and Economic Development Director

The Community and Economic Development Director (Director) administers the Community Development Department. The Director has the following powers and duties:

A. Administer the Zoning Code.

B. Provide recommendations to the City Council, appointed officials and City management on matters related to the physical development of the community.

C. Administer the annexation process.

D. Process, review, and make recommendations to the Plan Commission on applications for:

1. Amendments to the Comprehensive Plan text or map.

2. Conditional Uses.

3. Design Review.

4. Amendments to Zoning Code text or map.

5. Preliminary Subdivision Plats.

E. Perform administrative design review pursuant to Chapter 5.6: Design Review.

F. Expand the notification area set forth in Section 5.205: Notice of Public Hearings.

G. Determine if applications require a zoning amendment or amendment to the Comprehensive Plan.

H. Process and make recommendations on appeals, pursuant to Chapter 5.211: Procedure for Appeals.

I. Appoint and supervise the work of the Planning and Zoning Officer.

J. Make recommendations to the Plan Commission on design guidelines.

K. Make recommendations to the Zoning Board of Appeals.

L. Waive the Proposed Development Plan Review process, pursuant to Section 5.201: Proposed Development Plan Review.

M. Approve other applications and projects as authorized by the Zoning Code.

N. Waive development review application submittal requirements.

O. Delegate tasks or authority as appropriate to other staff members under his/her supervision.

5.106 Planning and Zoning Officer

The Planning and Zoning Officer is a member of the Community Development Department appointed by the Director. The Planning and Zoning Officer has the following powers and duties:

A. Administer and enforce the provisions of the Zoning Code.

B Interpret the Zoning Code to members of the public and to other City departments.

C. Review, approve, approve with modifications and/or conditions or deny applications for Administrative Use Permits, pursuant to the provisions of Chapter 5.4: Use Permits.

D. Approve or deny applications for modifications to Administrative Use Permits, pursuant to the provisions of Chapter 5.4: Use Permits.

E. Refer to the Plan Commission Administrative Use Permit applications determined to merit review by the Plan Commission.

F. Initiate proceedings for the revocation of a Conditional Use, pursuant to the provision of Chapter 5.4: Use Permits.

G. Make determinations regarding uses that are not specifically included in a permitted use classification in this Code.

H. Make determinations regarding parking requirements for uses that are not specifically identified in this Code.

I. Make determinations regarding Group Homes, pursuant to the provisions of Section 4.504.F: Request for Accommodation.

J. Make determinations regarding religious assembly uses, pursuant to the provisions of Section 4.505: Request for Determination.

K. Make determinations regarding nonconforming uses, lots, parcels, structures, and signs, pursuant to the provisions of Section 4.603.B: Determination of Status.

L. Modify or waive equipment cabinet screening requirements for Wireless Communication Facilities, pursuant to the provisions of Section 4.704.E: Equipment Cabinets and Buildings.

M. Waive or modify standards for the establishment of Amateur Radio Facilities, pursuant to the provisions of Section 4.803.D.2 Waiver of Standards.

N. Waive or modify regulations in instances where the City's Building Code requires safety related improvements that exceed bulk limits.

5.107 Code Compliance Officer

The Code Compliance Officer, pursuant to Chapter 2, Chapter III, Division 6 of the Batavia Municipal Code, is a member of the Building division. The Code Compliance Officer shall enforce the provisions of the Zoning Code, including conducting inspections and issuing citations as provided for by State law and local ordinance.

Chapter 5.2: Common Procedures

Sections:

5.201 Initial Land Use Proposal Review
5.202 Proposed Development Plan Review
5.203 Application Process
5.204 Fees and Fines
5.205 Neighborhood Meeting
5.206 Public Notice
5.207 Public Hearing Procedures
5.208 Findings Required
5.209 Administrative Procedures
5.210 Final Decisions
5.211 Procedures for Appeals
5.212 Procedure for Inspections

5.201 Initial Land Use Proposal Review

A. ***Purpose.*** The Initial Land Use Proposal Review is intended to allow the City Council to consider specific land uses for a particular location to help potential zoning/Comprehensive Plan applicants decide whether or not to proceed with submitting subsequent applications. Additionally, this Review allows the general public to participate in the City Council's discussion.

B. ***Applicability.*** The Initial Land Use Proposal Review may be conducted to consider new uses of land that differ from what is prescribed for the subject property on the City's Comprehensive Plan Land Use Map and/or Official Zoning Map. This Review may be pursued at the option of the owner(s) of the subject property or by an interested party with consent of the owner(s). This Review shall not eliminate any other reviews/hearings of land use and or development proposals as specified in this Title or Title 11.

C. ***Application Submittal.***

1. A request for Initial Land Use Proposal Review shall be filed with the Community and Economic Development Department on a form established by the Community and Economic Development Director.

2. Information regarding the proposed land use that shall accompany the application form is limited to:

    a. A statement identifying the basic land uses to be one or more of the following:

        (1) Commercial

(2) Residential (single, two family, or multiple family, with gross densities cited)

(3) Industrial

(4) Office

(5) Institutional

(6) Open Space

(7) Mixed use

b. A site plan showing the basic layout of the subject property to include:

(1) Identification of existing land uses on properties within 1,000 feet of the subject property

(2) Location(s) of the subject property's identified land use(s) as proposed in 5.201.C.2.a

(3) General transportation networks (streets, internal roadways, bicycle paths, trails, sidewalks) with potential connection points to the existing networks and/or adjacent properties

c. There shall be no fee required with application submittal.

D. ***Initial Land Use Proposal Review Meeting.***

1. The Community and Economic Development Director shall select a City Council Committee meeting date to conduct the Initial Land Use Proposal Review.

2. The applicant shall notify owners of property within 500 of the subject property of the time and date of the meeting. Said notice shall be sent via regular US Mail between 15 and 30 days before the scheduled Initial Land Use Proposal Review.

3. At the Committee meeting, the applicant shall make a 10 minute or less presentation to review the application material, after which the Committee may ask questions of the applicant.

4. After the applicant's presentation, Batavia staff may provide additional relevant information, not to exceed 10 minutes, after which, the Committee may ask questions of staff.

5. After staff's input the Committee shall allow up to 30 minutes for public comment.

6. After public comment, the Committee shall discuss issues of the proposal and provide general commentary to the applicant. No vote or straw poll is taken.

5.202 Proposed Development Plan Review

A. ***Proposed Development Plan Requirements.*** Proposed Development Plan review is required, unless waived by the Community and Economic Development Director (Director) pursuant to Section 5.105.L for the following before an application will be accepted for processing:

1. Comprehensive Plan Land Use or Transportation and Circulation Map Amendments.

2. Preliminary subdivision plats.

3. New vertical structures for Wireless Communication Facilities.

B. ***Optional Review.*** An applicant for a project not requiring Proposed Development Plan review may request such review.

C. ***Application Submittal.*** A request for Proposed Development Plan review shall be filed with the Community and Economic Development Department on a form established by the Director.

D. ***Proposed Development Plan Meetings.*** City staff may meet with the applicant or representative to provide comments. Following the meeting, staff shall provide the applicant with a written summary of comments and place a copy of the comments in the project file.

E. ***Fees.*** There shall be no fee for the initial Proposed Development Plan review. Subsequent Proposed Development Plan reviews are subject to a fee established by City Council ordinance.

5.203 Application Process

A. ***Applications.*** Completed applications shall be submitted to the Community and Economic Development Department on a form established by the Director. Any of the following persons or entities may submit an application:

1. The owner of the property.

2. An agent authorized by the owner.

3. A person acting under a purchase contract or exclusive option to purchase the property.

B. Disclosure of Beneficiaries. Disclosures are required when any person or entity applies for zoning approvals from the City of Batavia. Failure to provide full and complete disclosure will render any application voidable by the City of Batavia. The following described persons firms, corporations, and entities shall submit with their application a written disclosure of interest, subscribed by a duly authorized owner, trustee, corporate officer, general partner or managing agent:

1. Land Trusts: The name, address and interest of all persons, firms, corporations or other entities who are the beneficiaries of such land trust shall be identified.

2. Corporations: The name and address of all corporate officers; the name and address of every person who owns five percent (5%) or more of any class of stock in the corporation; the name and address of the registered agent; the State of incorporation; and the address of the corporation's principal place of business shall be identified.

3. Partnerships: The name and address of all general and limited partners, identifying those persons who are limited partners and those who are general partners; the address of the partnership's principal office; and, in the case of a limited partnership, the county where the certificate of limited partnership is filed and the filing number shall be identified.

4. Joint Ventures: The name and address of every member of the joint venture shall be identified.

5. Persons and Other Entities: The name and address of every person having a proprietary interest, an interest in profits and losses or the right to control any entity or venture such as a sole proprietorship, association or trust shall be identified.

C. ***Application Content.***

1. The Director shall specify the form and content of applications that are required pursuant to the Zoning Code. The Director may require additional supporting materials as part of the application, including but not limited to, legal descriptions, statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe the existing situation and the proposed project.

2. The applicant shall be responsible for the accuracy and completeness of all information submitted to the City. The Director may waive the submission of specific material or information if he finds it is not needed to reach a decision on the application.

D. ***Determination of Completeness.*** After receiving an application accompanied by the required fee, the Director shall determine if the application is complete within 10 working days of the filing date. The Director shall notify the Applicant if the application is incomplete. If the application is incomplete, the City shall identify the items that must be filed to complete the application. After 30 days, incomplete applications may be discarded and the fee returned to the applicant.

E. ***Concurrent Applications.*** When a project requires approvals under more than one section of the Zoning Code, the individual applications may be accepted for concurrent review.

F. ***Inspection and Reproduction of Public Records.*** All applications that have been determined to be complete, including supporting materials, are public records. Public records may be reviewed and copied upon request during normal business hours. The applicant shall clearly label each page of copyrighted or trademarked materials, and such materials shall be available for public inspection, but copyrighted materials shall not be copied except as needed for City review.

G. ***Application Activity.*** Application activity shall be considered as follows:

1. A written response to a staff review letter.

2. The submittal of new drawings, plans, or studies.

3. Documentation showing that a professional study is scheduled to be conducted or is being conducted. A professional study may include but is not limited to a traffic study, environmental impact assessment, utility capacity, or fiscal impact analysis.

H. ***Inactive Applications.*** All applications shall be actively pursued to a decision. If no applicant activity has occurred on an application for 90 days, the Director may request from the applicant a written timeline for action on the application. If the applicant is not responsive to the request or does not provide other application activity within 15 days, the Director may provide written notice that the application shall be closed after 30 days from the notice without additional activity. In any case, any application that is inactive for 180 days, the application shall be determined to be inactive. Thirty (30) days prior to that date the staff shall notify the applicant in writing that the application will become inactive. If the applicant requests in writing that the Director extend the 180-day period, such request shall be accompanied by an explanation for the period of inactivity. The Director may grant an extension for up to 180 days for good cause if there is a reasonable belief that the application will be actively pursued during the extension period. If an extension is not approved, the application will be deemed withdrawn and the file shall be closed.

I. ***Successive Applications***. Within one (1) year of the date of denial of an application, a subsequent application for the same property that makes the same request shall not

be reviewed or heard unless there is substantial new evidence available, the restriction that prevented its approval has been amended, or if a significant mistake of law or fact affected the prior denial. Such subsequent application shall include a detailed statement of the grounds justifying its consideration. The Director of Community and Economic Development shall determine whether the subsequent application is essentially the same request. If the Director finds that there are no grounds for consideration of the subsequent application, they shall deny the application.

5.204 Fees and Fines

A. ***Required Fees.*** All applications required by the Zoning Code shall be accompanied by the required fees set by ordinance of the City Council. Applications shall not be deemed complete without payment of the required fee.

B. ***Fee Refunds.*** If an application is withdrawn prior to a decision, the applicant may be eligible for a refund of a portion of the fee. The amount of the refund shall be determined by the Director based on direct and indirect costs incurred by the City through the date of withdrawal. Fee refunds shall not be made for applications that have been denied or determined to be inactive.

C. ***Fines.*** All fines imposed by the City of Batavia for violations of a zoning ordinance, the Zoning Code, a conditional use ordinance, administrative approval, a variance, or a design review approval shall be established by either:

1. City Council ordinance, or

2. The Hearing Officer

5.205 Neighborhood Meeting

A. ***Neighborhood Meeting Requirements.*** At the discretion of the Director, applicants may be required to conduct a neighborhood meeting. The purpose of the meeting is to inform neighborhood residents about the proposed project. Prior to scheduling Plan Commission review, the applicant shall provide a report to the City explaining the method of meeting notification, list of attendees and a record of the proceedings.

B. ***Neighborhood Meeting Details.*** The meeting shall be held at City Hall and shall be open to the public. The Director shall determine the method and extent of meeting notification. This may include sending notification to area residents and posting of a sign on the property. City staff may attend.

5.206 Public Notice

Prior to consideration of any action for which the Zoning Code requires notice pursuant to this section, notice shall be given in compliance with the following requirements:

A. ***Published Notice.*** For Comprehensive Plan amendments, amendments to the zoning code text, amendments to a zoning ordinance or the Official Zoning Map, conditional use permits, zoning variances and appeals heard by the Zoning Board of Appeals, the Director shall prepare for publication a Notice of Public Hearing, to comply with the following requirements:

1. The notice shall be published at least 15 days prior to the date of the public hearing in a newspaper of general circulation within the City.

2. The notice shall include a general description of the proposed project or action and the property included in the application.

3. The notice shall specify the date, time, location, and purpose of the public hearing.

4. The notice shall state the location and times at which the complete application and project file may be viewed by the public.

5. The notice shall state that any interested person or authorized agent may appear and be heard.

6. Legal Description or PIN Number and Address if required by State Law.

B. ***Posting of Official Notice.*** For applications for Comprehensive Plan amendments, amendments to the zoning code text, amendments to a zoning ordinance or the Official Zoning Map, conditional use permits, zoning variances and appeals heard by the Zoning Board of Appeals, the Director shall prepare a Notice of Public Hearing. The City shall post the notice at least 48 hours prior to the date of the public hearing at a public place within the City designated by City Council for posting of public notices.

C. ***Property Posting.*** For applications requiring public notice pursuant to 5.205.D and 5.205.E the applicant shall post a sign on the subject property informing the public. The sign shall be subject to the following requirements:

1. *Time Required.*

   a. Public Hearings: The sign shall be posted at least 15 days prior to the date of the public hearing, and shall be maintained in its original condition and location until the hearing.

   b. Public Meetings: The sign shall be posted at least 10 days prior to the date of the public meeting, and shall be maintained in its original condition and location until the meeting,

2. Posting, maintenance and removal of signs are the responsibility of the applicant. When a hearing or meeting is continued, the applicant shall update the sign to reflect the continued hearing or meeting date and time.

Failure to remove the sign within 10 days of closing of the public hearing or meeting shall result in issuance of a notice of violation by the City.

3. Size, color, content, and location of public hearing or meeting signs shall be designated by the Director. The signs shall be lettered and posted so that the following are legible from adjacent public rights of way: "City of Batavia," the action requested, the date, time, and place of the hearing or meeting.

4. The applicant shall submit a signed affidavit of posting five business days prior to the public hearing or meeting.

5. Failure of the applicant to provide evidence of posting shall result in a postponement of the public hearing or meeting.

D. ***Mailed Notice of Public Hearing.*** For applications for Comprehensive Plan Land Use Map amendments other than the periodic update, rezoning, conditional use permits, zoning variances and appeals heard by the Zoning Board of Appeals, the Director shall prepare a Notice of Public Hearing. The notice shall be subject to the following requirements:

1. At least 15 days but not more than 30 days prior to the date of the public hearing, the applicant shall notify the following by first-class mail:

   a. All property owners of record within 500 feet of the property, unless the Comprehensive Plan or other policy adopted by the City Council requires notification within a larger area.

   b. The property owner if the application is initiated by a person other than the property owner.

   c. All public agencies potentially affected by the action.

2. The Director may require the applicant to send notice to property owners beyond the notification area set forth in Section 5.205.D.1.a if he determines the potential impact of the project extends beyond the required notification boundary.

3. The notice shall be on a form prepared by the Director and completed by the applicant. A copy of the final notice shall be provided five business days prior to the public hearing.

4. The applicant shall submit a signed affidavit of mailing prior to the public hearing. Failure of the applicant to provide the affidavit shall result in a postponement of the public hearing.

E. ***Mailed Notice of Public Meeting.*** Applications for design review and preliminary subdivision plats of four or more lots shall require the Director to

prepare a Notice of Public Meeting. The notice shall be subject to the following requirements:

1. At least 10 days but not more than 30 days prior to the date of the public meeting, the applicant shall notify the following by first-class mail:

    a. All property owners of record within 500 feet of the property.

    b. The property owner if the application is initiated by a person other than the property owner.

    c. All public agencies potentially affected by the action.

2. The Director may require the applicant to send notice to property owners beyond the notification area set forth in Section 5.205.E.1.a if he determines the potential impact of the project extends beyond the required notification boundary.

3. The notice shall be on a form prepared by the Director and completed by the applicant. A copy of the final notice shall be provided five business days prior to the public meeting.

4. The applicant shall submit a signed affidavit of mailing prior to the public meeting. Failure of the applicant to provide the affidavit shall result in a postponement of the public meeting.

5.207 Public Hearing Procedures

A public hearing held pursuant to the Zoning Code shall comply with the following procedures:

A. ***Public Hearing Testimony***

1. *Rights of All Persons.* Any interested person may appear at a public hearing and submit oral or written testimony related to the application, either individually or as a spokesman for a person, a group of people or an organization. Each person who appears at a public hearing shall sign in, identify himself, state an address and, if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

2. *Time Limits*. The Mayor or Chair may establish reasonable time limits for individual testimony and may require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals in order to minimize redundancy.

3. *Exclusion of Testimony*.

    a. The Mayor or Chair may exclude testimony or evidence that is irrelevant, immaterial, or repetitious.

b. In the event any testimony or evidence is excluded as irrelevant, immaterial, or repetitious, the person offering such testimony or evidence shall have an opportunity to offer a written statement in regard to such testimony or evidence for the record. Such written statement shall be presented to the City Clerk within 3 working days of the hearing.

B. ***Order of Proceedings at Public Hearing.*** The order of the proceedings at the public hearing shall be as follows:

1. *Introduction of Item.* The Mayor or Chair shall introduce the item.

2. *Public Hearing.* The Mayor or Chair shall open the public hearing.

3. *Swearing of Witnesses.* The Mayor or Chair shall swear in persons wishing to speak a public hearing, other than staff.

4. *Staff Report.* Staff shall present a report, which includes a written recommendation, and shall respond to questions from the decision-making body.

5. *Applicant Presentation.* The applicant shall present the project, indicate concurrence or disagreement with advisory body or staff recommendations, and respond to questions from the body.

6. *Public Testimony.* Testimony will be accepted from those requesting to be heard, subject to the limitations of Section 5.206.A: Public Hearing Testimony. Witnesses opposing the application shall have the right to cross examine the applicant, City staff, and witnesses for the applicant. The applicant shall have the right to cross examine City staff and witnesses opposing the application.

7. *Applicant Response.* The Mayor or Chair may request the applicant to respond to testimony or evidence presented by the public or staff.

8. *Staff Response.* Staff and the City Attorney may provide information or clarification regarding matters raised during the public hearing.

9. *Continuance of Public Hearing or Meeting*. The body conducting the public hearing or meeting may by motion continue the public hearing to a fixed date, time, and place. In such event, no further notice need be given.

10. *Close of Public Hearing*. If not continued, the Mayor or Chair shall close the public hearing after approved motion to do so.

11. *Tabling*. The decision-making body conducting the public hearing may by motion table the public hearing. Any further public hearing on the matter shall not be conducted until notice is given in the same manner as for the initial hearing.

12. *Deliberation and Action*. The City Council, Zoning Board of Appeals, or Plan Commission, shall discuss the request and approve or recommend approval with or without modifications or conditions, or deny the request, unless it has been continued or tabled.

5.208 Findings Required

When making a decision to approve, approve with modifications and/or conditions, revoke, or deny any rezoning, conditional use permit, administrative use permit, or variance, the decision-making body shall make findings of fact required by the Zoning Code. Findings shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the record and shall be in writing and included in the minutes. Draft findings shall be set forth in the staff report.

5.209 Administrative Procedures

Any person may examine an application and materials submitted in support of or in opposition to an application in the Community and Economic Development Department offices during normal business hours. Copies of such materials shall be made available at a reasonable cost to be established from time to time through City Council ordinance. Staff reports to the Plan Commission, Zoning Board of Appeals, or City Council or Council committee(s) will not be made available to the public or applicants until they have been submitted to the body for which the reports were prepared.

5.210 Final Decisions

A. ***City Council.*** A final decision of the City Council shall be upon passage and approval of the ordinance or resolution as the case may be.

B. ***Zoning Board of Appeals, Plan Commission and Administrative Actions.*** A final decision on those matters for which they have final authority shall be on the day of the action.

5.211 Procedures for Appeals

This section sets forth the procedures for appeals of decisions of the Plan Commission, Zoning Board of Appeals and administrative officers. Any decision within the authority of the decision-making body may be appealed, unless the Zoning Code provides that the decision is final.

A. ***Rights of Appeal.***

Except as provided in this Section, appeals may be filed by:

1. The applicant on a matter that is the subject of a final decision by the Planning and Zoning Officer, Director of Community and Economic Development, Plan Commission, or Zoning Board of Appeals.

2. The Mayor or a member of the City Council.

3. The City Administrator.

B. ***Filing of Appeal.*** An appeal shall be filed with the Community and Economic Development Department on a form established by the Director. The appeal shall set forth the decision or decisions being appealed and the grounds upon which the appeal is based. The appeal shall be accompanied by any applicable fees.

C. ***Time Limits for Appeal.*** All appeals shall be filed within 10 calendar days of the final decision. This only applies to appeals filed pursuant to the City appeal process. Appeals to the Circuit Court of final decisions of the City Council, Plan Commission, or Zoning Board of Appeals shall be pursuant to applicable provisions of the Illinois Municipal Code (65 ILCS 5/1-1-1, et seq) and/or the Illinois Code of Civil Procedure (735 ILCS 5/1-101, et seq).

D. ***Proceedings Stayed by Appeal.*** The timely filing of an appeal shall stay all proceedings in the matter appealed.

E. ***Transmission of Record.*** The Director shall forward the appeal and all other documents that constitute the record to the decision-making body.

F. ***Standards.*** When reviewing any decision on appeal, the decision-making body shall use only the record of decision to determine if the decision shall be upheld, amended or reversed.

G. ***Hearing Body Action.*** Public hearings shall be conducted in accordance with procedures set forth in Section 5.207: Public Hearing Procedures. In addition, the decision-making body may remand the matter to the original decision-making body for reconsideration, for additional information or to cure a deficiency in the record or proceeding. The decision-making body shall render its decision within 30 days of the date the hearing is closed unless State law requires a shorter deadline.

5.212 Procedures for Inspections

This section sets forth the procedures for inspections of construction that have received approval under this Title.

A. ***Inspections Pursuant to Issuance of a City of Batavia Building Permit.*** Inspections for construction pursuant to issuance of a City of Batavia building permit shall be scheduled through, and conducted as part of the building permit inspection process, set forth in Title 9: Building Regulations.

B. ***Inspections of Construction Approved by Other Jurisdictions.*** It shall be the responsibility of the applicant of the approved construction under this Title to schedule inspection of the property with the Planning and Zoning Officer in conjunction with the construction activity, before project completion. Any site conditions not in compliance shall be corrected according to conditions as approved under this Title. It shall be the responsibility of the same party to schedule re-inspection in the manner established herein.

Chapter 5.3: Zoning of Annexed Property

Sections:

5.301 Purpose
5.302 Initiation of Annexations
5.303 Procedures

5.301 Purpose

The purpose of this chapter is to provide procedures consistent with applicable Illinois law requirements for the zoning of land annexed into the City. This chapter shall apply to all property being annexed into the City.

5.302 Procedures for Annexation of Land

Annexation of property to the City shall be governed by the provisions of the Illinois Municipal Code, 65 ILCS 5, Article 7, Division 1: Annexation.

5.303 Procedures for Zoning of Annexed Property

A. ***Annexation without an Annexation Agreement.*** Property annexed to the City without an annexation agreement shall be automatically classified as R0 (Single Family Residential), unless an application for rezoning has been filed pursuant to Chapter 5.7: Amendments to the Zoning Code Text or Official Zoning Map, and Chapter 5.2: Common Procedures.

B. ***Annexation with an Annexation Agreement.*** Property annexed to the City that is subject to an annexation agreement shall be classified in accordance with the zoning specified in the agreement. An application for rezoning shall be filed concurrent with the filing of an application for an annexation agreement. The applications will be processed pursuant to Chapter 5.7: Amendments to the Zoning Code Text or Official Zoning Map, and Chapter 5.2: Common Procedures.

C. ***Consistency with the Comprehensive Plan.*** The requested zoning of annexed property shall be consistent with the Comprehensive Plan Land Use Element, or the applicant shall file an application to amend the Comprehensive Plan in accordance with Chapter 5.8: Amendments to the Comprehensive Plan. An application to amend the Comprehensive Plan shall be processed concurrent with the application for rezoning.

D. ***Effective Date of Zoning.*** The effective date of the zoning of annexed property shall be the effective date of the zoning ordinance classifying the property.

Chapter 5.4: Use Permits

Sections:

5.401 Purpose and Applicability
5.402 Procedures
5.403 Required Findings
5.404 Expiration; Modifications; Revocation
5.405 Appeals
5.406 Effective Date of Permit

5.401 Purpose and Applicability

Chapters 2.1-2.7 of this code set forth those uses for which a use permit is required. No use requiring a use permit shall commence until a use permit is obtained. These uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The process for review of use permit applications is designed to evaluate possible adverse impacts and to minimize them where possible through the imposition of specific conditions or requirements. Approval of a use permit requires review of the location, design, configuration, and special impacts of a proposed use to determine, based on standards set forth in the Zoning Code, the desirability of permitting the use on a particular site.

This chapter sets forth the requirements for two use permit types. Administrative Use permits are those uses determined to have less potential to impact on surrounding properties which do not merit public review. Conditional Use permits are those uses that merit public review to insure compatibility with surrounding properties:

A. ***Administrative Use Permit.*** An Administrative Use Permit may be approved by the Planning and Zoning Officer for a use in specified districts based on a determination of compliance with standards set forth in the base district regulations and individual review of their location, design, configuration, intensity, and density of use or structures.

B. ***Conditional Use Permit.*** A Conditional Use is a Special Use as defined by Illinois Compiled Statutes (65 ILCS 5/11-13-1.1). A use permit approved by the City Council for a use in specified districts shall be based on a determination of compliance with standards set forth in the base district regulations, and individual review of the location, design, configuration, intensity, and density of use or structures.

5.402 Procedures

A. ***Administrative Use Permit.*** The following procedures shall apply to applications for Administrative Use Permits (AUP):

1. *Application***.** An application for an Administrative Use Permit shall be filed with the Community Development Department in accordance with the application procedures set forth in Chapter 5.2: Common Procedures.

2. *Neighborhood Notice*. No neighborhood notice is required for an Administrative Use Permit, except as otherwise required by this code.

3. *Action*. The Planning and Zoning Officer shall review the application for compliance with the Zoning Code. The Planning and Zoning Officer shall approve, approve with modifications and/or conditions, or deny the application and shall set forth any findings and decision on a Notice of Administrative Decision. The Notice of Administrative Decision shall be mailed to the applicant by first class mail.

4. *Notice of Administrative Decision Posting*. A Notice of Administrative Decision shall be posted in a public place at City Hall. The Notice shall describe the proposed use; the decision, including any conditions of approval; the time and place where the public may review the entire application; and the procedure and deadline for filing an appeal of the decision.

5. *Appeal*. Decisions of the Planning and Zoning Officer on Administrative Use Permits may be appealed to the Plan Commission pursuant to the procedures set forth in Section 5.211: Procedures for Appeals. The Plan Commission shall have the authority to uphold, modify, or overrule the decision of the Planning and Zoning Officer. Decisions of the Plan Commission shall be final.

B. ***Conditional Use Permits.*** The following procedures shall apply to applications for Conditional Use Permits:

1. *Application*. An application for a Conditional Use Permit shall be filed with the Community Development Department in accordance with the application procedures set forth in Chapter 5.2: Common Procedures. The application shall state whether the Conditional Use Permit would apply to the property or the business owner at the specified location.

2. *Public Notice*. Public notice shall be provided in accordance with the public notification procedures set forth in Section 5.205: Notice of Public Hearings.

3. *Staff Report*. The Director shall prepare and transmit to the Plan Commission a staff report, including an analysis and recommendation, setting forth any proposed findings and conditions upon which the Commission may base its decision.

4. *Public Hearing.* The Plan Commission shall conduct a public hearing in accordance with the procedures set forth in Section 5.206: Public Hearing Procedures.

5. *Plan Commission Action.* The Plan Commission shall render its decision in the form of a recommendation to the Community Development Committee of the City Council. The recommendation shall include findings upon which the recommended action is based. The Commission may recommend approval, approval with modification and/or conditions, or denial of the proposed conditional use permit.

6. *Community Development Committee Action*. The Community Development Committee shall consider a draft Conditional Use Permit ordinance and the recommendations of the Plan Commission and City staff, and may recommend approval, approval with modifications and/or conditions, or denial of the ordinance. The ordinance shall state whether the Conditional Use Permit would apply to the property or the business owner at the specified location.

7. *Conditions of Approval.* In approving a Conditional Use Permit ordinance, the City Council may impose conditions for the dedication of rights of way and easements related to the impact of the use, establish a schedule for development, or impose other conditions permitted by law.

8. *City Council Action.* The City Council may approve, approve with modifications and/or conditions, or deny the ordinance. The decision of the City Council shall be final.

5.403 Required Findings

The Plan Commission or the Planning and Zoning Officer (in the case of Administrative Use Permits) shall take action on a use permit or administrative use permit only after making findings of fact set forth in this section.

A. ***Findings Required for Approval of Administrative Use Permit.*** The Planning and Zoning Officer may approve an Administrative Use Permit as submitted or modified only upon making all of the following findings:

1. The proposed use will not be detrimental to the health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;

2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, redevelopment or other plan adopted by the City Council;

3. The proposed use conforms with the conditions, requirements, or standards prescribed by the Zoning Code and any other applicable local, State, or Federal requirements; and

4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

B. ***Findings Required for Denial of Administrative Use Permit.*** If the Planning and Zoning Officer is unable to make all the required findings for approval, he shall deny the application, in which case he shall state in writing the reasons for that determination.

C. ***Findings Required for Approval of Conditional Use Permits.*** The Plan Commission may approve a Conditional Use Permit as submitted or modified only upon making all of the following findings:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;

2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council;

3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and

4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

D. ***Findings Required for Denial of Conditional Use Permits.*** If the Plan Commission is unable to make all the required findings to recommend approval, it shall recommend denial of the application, in which case the Commission shall state in the minutes the reasons for that determination, and the reasons shall be transmitted in the staff report to the Community Development Committee and City Council.

5.404 Expiration; Modifications; Revocation

A. ***Expiration.*** A use permit shall automatically expire 1 year from its effective date unless either of the following has occurred:

1. Commencement of the use, or

2. Commencement of construction related to the use pursuant to a valid building permit.

B. ***Modifications.*** No change is permitted in the use or structure for which a use permit has been issued except as follows:

1. *Administrative Use Permit*. The Planning and Zoning Officer may approve modifications to any Administrative Use Permit. Modifications are limited to reasonable changes to the Administrative Use Permit that do not substantially alter a Final Design Review approval or any condition of the Administrative Use Permit. The Planning and Zoning Officer shall provide a written record of the decision and supportive findings.

2. *Conditional Use Permits*. Minor modifications to a Conditional Use Permit that do not substantially alter a Final Design Review approval or any condition of the Conditional Use Permit may be granted by the Planning and Zoning Officer. Significant modifications to a Conditional Use Permit may be granted by the City Council pursuant to the procedures set forth in Chapter 5.2: Common Procedures.

C. ***Revocation.*** A use permit may be revoked by the decision-making body following a public hearing if the use ceases for a period of 365 consecutive days, for a Use Permit and 180 days for an Administrative Use Permit, or at any time because of failure to comply with the conditions of the use permit.

1. *Initiation of Revocation*. Proceedings for the revocation of a use permit may be initiated by the Planning and Zoning Officer. The Planning and Zoning Officer shall prepare a written report to the decision-making body that contains the following information:

   a. The use permit to be revoked.

   b. The property to which the permit applies.

   c. The reason or reasons for the proposed revocation.

2. *Notice of Revocation Hearing*.

   a. Notice of a revocation hearing shall be given by certified mail or personal service at least 15 days prior to the hearing as follows:

      (1) To the property owner of record.

      (2) To the property address.

      (3) To the business address.

   b. Notice of the public hearing shall be published at least 15 days prior to the date of the hearing at least once in a newspaper of general circulation in the City of Batavia.

c. Notice shall be posted at least 15 days prior to the date of the hearing at a public place designated by the City Council for posting of public notices.

3. *Hearing*. The revocation hearing shall be held in accordance with the procedures for public hearing set forth in Section 5.206: Public Hearing Procedures.

4. *Required Findings*. In order to revoke the use permit, the decision-making body shall make one or more of the following findings:

   a. One or more of the conditions of the use permit have been violated; or

   b. The use has ceased for at least 365 consecutive days for a Use Permit and 180 consecutive days for an AUP, and the applicant has not demonstrated any evidence justifying continuation of the use.

5. *Action***.** Upon revocation of the use permit, the Planning and Zoning Officer shall set forth the decision in a Notice of Decision describing the decision-making body's action, with its findings. The Notice of Decision shall be mailed to the applicant by first class mail and to the:

   a. Property owner of record.

   b. Property address.

   c. Business address.

5.405 Appeals

A. ***Conditional Use Permits.*** Decisions on Conditional Use Permits by the City Council are final.

B. ***Administrative Use Permits.*** Decisions on Administrative Use Permits may be appealed to the Plan Commission pursuant to the procedures set forth in Section 5.210: Procedures for Appeals. The decision of the Plan Commission on such appeals is final.

5.406 Effective Date of Permit

A. ***Administrative Use Permits.*** The effective date of Administrative Use Permits shall be the 11th day after the approval, unless the action is appealed in accordance with Section 5.210: Procedures for Appeals. No building, grading, or construction permit shall be issued until the use permit becomes effective.

B. ***Conditional Use Permits.*** The Conditional Use Permit Ordinance shall be effective upon its presentation, passage and publication according to the law.

Chapter 5.5: Variances

Sections:

5.501 Purpose and Applicability
5.502 Procedures
5.503 Required Findings
5.504 Use Variances Prohibited
5.505 Conditions of Approval
5.506 Effective Date
5.507 Expiration

5.501 Purpose and Applicability

Variances provide a mechanism for relief from the strict application of the Zoning Code where the strict application will deprive the property owner of privileges enjoyed by similar properties and imposes practical difficulty or unnecessary hardship on the property owner. Variances may be granted with respect to dimensional and performance standards including, but not limited to site dimensions, yards, height of structures, distances between structures, open space requirements, signage dimensions, fences, and walls. No variances from the use regulations of the Zoning Code shall be granted.

5.502 Procedures

A. ***Application.*** An application for a variance shall be filed with the Community Development Department in accordance with the application procedures set forth in Chapter 5.2: Common Procedures. In addition to any other requirements specified, applications shall at a minimum include the following:

1. Evidence showing why, due to unique circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the Zoning Code would create an unnecessary hardship or practical difficulty, as distinguished from a mere inconvenience, and deprive the property owner of property rights enjoyed by other property owners in the same zoning district.

2. Evidence that the unique circumstances applicable to the property were or are not self-imposed by the applicant.

3. Evidence showing that the requested variance will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and district in which the property is located.

4. Evidence showing why granting the variance:

    a. Substantially meets the intent and purpose of the zoning district in which the property is located.

b. Will not be detrimental to the health, safety, and general welfare of persons living or working in the neighborhood.

c. Will not alter the essential character of the locality.

B. ***Public Notice.*** Public notice shall be provided in accordance with the public notification procedures set forth in Section 5.205: Notice of Public Hearings.

C. ***Staff Report.*** The Director shall prepare and transmit to the Zoning Board of Appeals (ZBA) a staff report, including an analysis and recommendation, setting forth any proposed findings and conditions upon which the ZBA may base its decision. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing.

D. ***Public Hearing.*** The ZBA shall conduct a public hearing in accordance with the procedures set forth in Section 5.206: Public Hearing Procedures. In addition, variance applicants and property owners shall have all rights under 65 ILCS 5/11-13-7a.

E. ***ZBA Recommendation.*** The ZBA shall make a recommendation to the Community Development Committee within 30 days after the hearing is closed. The ZBA may recommend approval, approval with modifications and/or conditions, or denial.

F. ***Community Development Committee Recommendation.*** The Community Development Committee shall consider a draft variance ordinance and the recommendations of the ZBA and City staff, and may recommend approval, approval with modifications and/or conditions, or denial of the ordinance.

G. ***City Council Action.*** The City Council may approve, approve with modifications and/or conditions, or deny the variance ordinance. City Council approval of variance applications recommended for denial by the ZBA shall require a two thirds vote.

H. ***Appeal.*** Decisions of the City Council regarding variances are final.

5.503 Required Findings

The Zoning Board of Appeals shall make a recommendation on a variance only after finding, prior to making the recommendation, that:

A. There are unique circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the Zoning Code would create an unnecessary hardship or other practical difficulty, as distinguished from a mere inconvenience, and deprive the property owner of property rights enjoyed by other property owners in the same zoning district; and

B. Such unique circumstances were not created by the applicant; and

C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and

D. The variance will not alter the essential character of the locality.

5.504 Use Variances Prohibited

The City Council by granting a variance shall not approve any changes in the uses permitted in any zoning district or approve any modification of the requirements of the Zoning Code that would have the effect of allowing the establishment of a use not otherwise permitted.

5.505 Conditions of Approval

In approving a variance, the City Council may impose reasonable conditions to:

A. Achieve the general purposes of the Zoning Code or the specific purposes of the zoning district in which the site is located, or to make it consistent with the Comprehensive Plan or a redevelopment plan;

B. Protect the public health, safety, and general welfare;

C. Require that the property that is the subject of the variance be developed in a manner consistent with the proposal approved by the Board; or

D. Insure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.

5.506 Effective Date

The variance ordinance shall be in full force and effect upon its presentation, passage and publication according to the law. No building, grading, or construction permit shall be issued until the variance is effective.

5.507 Expiration

A variance shall expire:

1. Six months from the effective date of the ordinance unless the use is commenced; or

2. Six months from the effective date of the ordinance unless a building permit is issued for the improvements approved by the ordinance and work is completed pursuant to the issued building permit.

Chapter 5.6: Design Review

Sections:

5.601 Purpose
5.602 Applicability
5.603 Procedures and Responsibilities
5.604 Design Review Approval
5.605 Appeals of Decisions of the Plan Commission and Community and Economic Development Director
5.606 Effective Date and Expiration Date
5.607 Enforcement

5.601 Purpose

Purpose. The purpose of Design Review is to protect public health, safety, and general welfare, and to preserve and enhance property values by promoting and maintaining a functional and aesthetic community character founded on the principles of sound site planning, urban design, architecture, landscape design, and energy efficiency, sensitive to the natural environment, consistent with the policies and guidelines of the Comprehensive Plan and adopted Design Guidelines. More specifically, Design Review is intended to ensure that:

A. Adopted design guidelines are applied consistently to developments subject to Design Review in the City.

B. Site and architectural design of structures harmonize visually with surrounding development and creates a built environment that is safe and aesthetically pleasing.

C. The arrangement of buildings, parking areas, drive aisles, storm water management facilities, pedestrian ways and other features of the site combine to create a functional project that is convenient for users of the property.

D. Unsightly uses, features or activities are screened from public view and from adjacent property, and dissimilar uses are separated by buffers to prevent conflicts, promote privacy, and maintain property values.

E. Landscaping provides a visually pleasing setting for structures on the site, complements the architecture of the project, mitigates the heat island effect, blends harmoniously with the natural landscape, conserves water, does not conflict with public or private utilities, visually buffers incompatible uses, and is suited to the site and the area's climatic conditions.

F. Project materials and colors are appropriate to the architectural style of the structures, durable and suited to the climate, complement neighboring properties and project a high quality image.

G. Signage, building graphics, exterior lighting, and other decorative structures and features are compatible with the design of the structure(s) and with the architectural character of the surrounding area.

5.602 Applicability

Design Review is required for all new construction, exterior site and structure alterations, signs, and subdivision plats prior to issuance of a building permit or commencement of construction activity, including public facilities, with the following exceptions:

A. All single family detached dwelling units and related accessory structures buildings, unless part of a planned development which requires Design Review.

B. Accessory structures in all single family districts.

C. Minor exterior site and structure alterations that do not affect the design concept or function of the site or structure. It shall be the responsibility of the Planning and Zoning Officer to determine if a proposal includes only minor site or building changes.

D. Repairs that do not alter the exterior design of a structure.

E. Approved temporary construction offices.

F. Changes to the face of an existing approved sign.

G. Signs consistent with an approved Design Review.

H. City owned utility sites with or without unoccupied buildings.

5.603 Procedures and Responsibility

A. ***Procedures.*** The following procedures shall apply to applications for preliminary and Final Design Review:

1. *Proposed Development Plan Review*. Proposed Development Plan Review shall be as required subject to procedures set forth in Chapter 5.2: Common Procedures.

2. *Preliminary Design Review*. Preliminary Design Review is required for phased projects only. Preliminary Design Review shall encompass all of a proposed phased or multiple building project. Preliminary Design Review establishes the overall organization of the project and the relationship between structures, vehicular and pedestrian access, landscape design concepts, preliminary grading and drainage, and any other significant improvements, both on-site and off-site. Preliminary Design Review for phased projects shall include approval of design guidelines for architecture and landscaping. Preliminary Design Review may include building elevations and signage.

3. *Applications.* Applications for Design Review approval or amendments to an existing approval shall be filed in accordance with the application procedures set forth in Chapter 5.2: Common Procedures. Applications may be filed for Preliminary Design Review approval, Final Design Review approval, or concurrent preliminary and Final Design Review approval.

    a. *Final Design Review*. Final Design Review approval is required before a project may be submitted for building permit review. Final Design Review approval establishes a site plan, landscape plan, building elevations, materials and colors, exterior lighting, signage, and preliminary grading and drainage. Final Design Review may encompass all or part of the property covered by a Preliminary Design Review approval and must be consistent with that approval.

    b. *Concurrent Review*. Preliminary and Final Design Review applications may be processed concurrently when the Final Design Review application area covers only a portion of the preliminary application area.

4. *Notice*. Public Hearing notice is not required for Design Review applications.

5. *Notice to Adjacent Jurisdictions*. When a preliminary or Final Design Review application involves development of land that abuts other municipalities or unincorporated areas of Kane and DuPage Counties or a combination thereof, the Director shall send a copy of the meeting notice to the planning agency of the adjacent governmental unit.

6. *Staff Report*. The Director shall prepare and transmit a staff report to the Plan Commission. A copy of the staff report shall be made available to the public and the applicant prior to the meeting.

7. *Discussion and Deliberation*. The Plan Commission shall discuss each application with the applicant and staff, and shall afford all interested parties an opportunity to comment on the application prior to taking action.

8. *Action*. The Plan Commission may approve, approve with modifications and/or conditions, or deny the proposal.

9. *Conditions of Approval*. The approval of a Design Review application may include conditions necessary to further the purpose of this Section.

B. ***Administrative Design Review.*** Administrative Design Review for minor projects listed below shall be conducted by the Director. The Director may refer any application for Administrative Design Review to the Plan Commission for action.

1. *Scope of Administrative Design Review Authority*. The Director shall conduct Administrative Design Review of applications for:

    a. New buildings of 500 square feet or less

    b. additions of 1,000 square feet or less to an existing or approved building.

    c. building additions greater than 1,000 square feet and up to 50,000 square feet that:

        (1) do not exceed 20% of the area of the existing building;
        (2) are not revealed on street-facing building elevation drawings; and
        (3) are no closer than 100 feet to any property line

    d. minor revisions to approved Final Design Review plans that meet the standards of the Zoning Code, will not expand, intensify, or substantially change any approved site plan, landscape plan, or structure, and are consistent with the intent of the original approval.

    e. changes to colors and/or materials to an existing structure or property, or to an approved project that do not substantially change the appearance of the site or its structure.

    f. locations of outdoor retail sales and merchandise displays not designated on a Final Design Review plan.

    g. signs, other than Temporary Signs, requiring a building permit that are not part of an approved Final Design Review.

    h. fences required by Chapter 3.5: South River Street Gateway Overlay Zoning District.

    i. cart corrals in existing parking lots.

    j. wider driveways allowed by Section 4.207.B.2

2. *Applications for Administrative Design Review*. Applications for Administrative Design Review approval or amendments to an existing administrative approval shall be filed in accordance with the application procedures set forth in Chapter 5.2: Common Procedures.

3. *Public Notice and Hearing*. No public notice or hearing is required for Administrative Design Review applications.

4. *Director Action*. The Director may approve, approve with modifications and/or conditions, or deny the application. The decision of the Director

shall be on a Notice of Decision, and a copy shall be mailed to the applicant.

5. *Conditions of Approval*. In approving an Administrative Design Review application, the Director may impose conditions necessary to further the purpose of this Section.

5.604 Design Review Approval

A. ***Action*.** The Plan Commission or the Director as appropriate shall approve, approve with modifications and/or conditions, or deny an application for Design Review subject to the requirements of the Zoning Code and based on compliance with approved design guidelines. An action of the Plan Commission shall be accompanied by findings of fact giving the reasons for the action.

B. ***Findings for Approval.*** The following findings shall be made prior to approval of a Design Review application:

1. The project is consistent with applicable design guidelines.

2. The project conforms to the Comprehensive Plan, and specifically to the Land Use, Urban Design, and Environment Elements.

3. The project is consistent with all applicable provisions of the Zoning Code.

4. The project is compatible with adjacent and nearby development.

5. The project design provides for safe and efficient provision of public services.

5.605 Appeals of Decisions of the Plan Commission and Community and Economic Development Director

A. Final decisions of the Plan Commission may be appealed to the City Council pursuant to the procedures set forth in Section 5.210: Procedures for Appeals. The City Council shall have the authority to uphold, modify, or reverse the decision of the Plan Commission. The decision of the City Council on appeals from a decision of the Plan Commission shall be final.

B. A decision of the Director may be appealed to the Plan Commission pursuant to the procedures set forth in Section 5.210: Procedures for Appeals. The Plan Commission shall have the authority to uphold, modify, or reverse the decision of the Director. The decision of the Plan Commission on appeals from a decision of the Director shall be final.

C. Appeals of decisions of the Plan Commission or Director shall be based on design issues that are within the scope of authority of the Plan Commission or the Director.

5.606 Effective Date and Expiration Date and Modifications

A. ***Effective Date.*** The effective date of the Final Design Review decision shall be the 11th calendar day after approval, if no appeal has been filed. No building, grading, or construction permit shall be issued until the Final Design Review decision becomes effective.

B. ***Expiration Date.*** Design Review approval shall expire automatically One (1) year after the effective date unless a building permit has been issued and work authorized by such permit has commenced.

C. ***Modifications.***

1. *Administrative Design Review.* The Planning and Zoning Officer may approve modifications to any Administrative Design Review approval. Modifications are limited to changes to the Administrative Design Review that do not substantially alter a Final Administrative Design Review plan or any condition of the Administrative Design Review. The Planning and Zoning Officer shall provide a written record of the decision.

2. *Design Review*. Minor modifications to a Design Review approval that do not substantially alter a Final Design Review approval may be granted by the Planning and Zoning Officer. Significant modifications to a Final Design Review Plan may be granted by the Plan Commission pursuant to the procedures set forth in Chapter 5.2: Common Procedures.

5.607 Enforcement

No building or grading permit shall be issued until the Applicant submits a Final Design Review Plan showing any changes required as a condition of Design Review approval. All future development shall conform to the approved Final Design Review Plan unless modifications or changes are approved pursuant to the requirements of the Zoning Code.

Chapter 5.7: Amendments to Zoning Code Text or the Official Zoning Map

Sections:

5.701 Purpose and Applicability
5.702 Initiation of Amendments
5.703 Procedures
5.704 Findings

5.701 Purpose and Applicability

The purpose of this chapter is to provide procedures consistent with applicable State requirements by which changes may be made to the text of the Zoning Code, other than a Conditional Use or a Planned Development overlay, and to the Official Zoning Map. This procedure shall apply to all proposals to change the text of the Zoning Code or to revise a zoning district classification or zoning district boundary line shown on the Official Zoning Map.

5.702 Initiation of Amendments

A. ***City Council***. The City Council or Council committee(s) may, by motion, direct the Plan Commission to analyze, conduct a hearing, and make a recommendation to the Council for an amendment to the text of the Zoning Code, or the Official Zoning Map.

B. ***Plan Commission.*** The Commission may initiate consideration of an amendment by a motion directing the Community Development Director to prepare an amendment to the text of the Zoning Code or the Official Zoning Map and to schedule a hearing on the proposed amendment pursuant to the procedures set forth in this chapter. Following the hearing the Commission may make a recommendation to the City Council for action.

C. ***Community Development Director***. The Community Development Director may prepare an amendment to the text of the Zoning Code or the Official Zoning Map and to schedule a hearing on the proposed amendment pursuant to the procedures set forth in this Chapter.

D. ***Owner Initiation***. A property owner or an agent authorized in writing by the property owner may apply for an amendment to the Official Zoning Map for his property.

E. ***Text Amendment.*** Text amendments may be initiated by any person having an interest in the proposed text amendment.

5.703 Procedures

A. ***Pre-Application Review***. Other than amendments initiated by the City Council or Council committee(s) or Plan Commission, all applications to amend the text of the Zoning Code or the Official Zoning Map shall be subject to pre-application review pursuant to the procedures set forth in Chapter 5.2: Common Procedures.

B. ***Application***. Other than amendments initiated by the City Council or Council committee(s) or Plan Commission, applications shall be filed in accordance with the application procedures set forth in Chapter 5.2: Common Procedures.

C. ***Notification.*** Public notification shall be provided in compliance with Section 5.205: Notice of Public Hearings. When the proposed amendment involves land that abuts other municipalities or unincorporated areas of Kane or DuPage Counties or a combination thereof, the Director shall send a copy of the Notice of Public Hearing to the planning agency of the adjacent municipal or county government.

D. ***Staff Report.*** The Director shall prepare and transmit to the Plan Commission a staff report. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing. The report may be supplemented to accommodate information provided at the public hearing; the supplemented report shall be made available per the requirements of the initial report. The report shall include an evaluation of the consistency and conformance of the proposed amendment with:

1. the Land Use Map of the Comprehensive Plan,

2. the goals and policies of the various Elements of the Comprehensive Plan, and

3. any applicable specific or redevelopment plan adopted by the City Council.

E. ***Plan Commission Hearing.*** The Plan Commission shall conduct a public hearing on any application to amend the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map as set forth in Chapter 5.2: Common Procedures.

F. ***Plan Commission Action.*** The Plan Commission shall render its decision in the form of a recommendation to the Community Development Committee. The Commission may recommend approval, approval with modification and/or conditions, or denial of the proposed amendment.

G. ***Committee of the Whole.*** The Committee of the Whole shall consider a draft ordinance and the recommendations of the Plan Commission and City staff, and may recommend approval, approval with modifications and/or conditions, or denial of the ordinance.

H. ***City Council Action.*** The City Council may approve, approve with modifications and/or conditions, or deny the ordinance.

I. ***Protest Procedures for Map Amendments.*** If a written protest, including evidence of the certified mailing required below, is filed with the City Clerk no later than 1:00PM on the day of the City Council meeting when the ordinance is to be considered, against any proposed amendment of the regulations or districts, signed and acknowledged by:

1. the owners of at least 20% of the frontage proposed to be altered; or

2. the owners of at least 20% of the frontage immediately adjoining or across an alley therefrom; or

3. the owners of the at least 20% of the frontage directly opposite the frontage proposed to be altered; and:

A copy of the written protest was served by the protestor or protestors on the applicant for the proposed amendments and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment, and the City has been provided evidence of receipt of the mailing; then the amendment shall not be passed except by a favorable vote of two-thirds of the aldermen then holding office.

J. ***Conditions of Approval.*** In approving an amendment to the Official Zoning Map, the City Council may impose conditions for the dedication of rights-of-way and easements related to the effect of the rezoning, establish a schedule for development, or impose other conditions permitted by law, and, if the amendment is for a Planned Development Overlay, may impose additional conditions necessary to ensure that the proposed amendment:

1. conforms to the Comprehensive Plan and any applicable redevelopment plan or specific plan adopted by the City Council; and

2. will not be detrimental to public health, safety, and general welfare of persons living or working in the surrounding area or to the general welfare of the City as a whole.

5.704 Findings

In considering amendments to the Official Zoning Map, the Plan Commission shall only recommend approval and the City Council shall only approve the proposed amendment ordinance after a review and determination of the following items:

A. ***Public Notice.*** All required public notice has been conducted in accordance with applicable state and local laws;

B. ***Public Meetings and Hearings.*** All required public meetings and hearings have been held in accordance with applicable state and local laws.

C. ***Conformance to the Comprehensive Plan.*** The extent to which the proposed amendment to the Official Zoning Map conforms generally to the goals and policies of the Comprehensive Plan and the Comprehensive Plan Land Use Map.

D. ***Review of Conditions:*** The following factors shall be considered in the Plan Commission's deliberation and the City Council's determination of a Zoning Map Amendment:

1. Is the proposed zoning district and the development it allows compatible with the existing uses and zoning of nearby property?

2. Is there evidence to suggest that property values will be diminished by the particular zoning restriction changes?

3. If any property values are diminished, does the diminishment promote the health, safety, morals, or general welfare of the public?

4. Does the proposed zoning change provide a greater relative gain to the public as compared to the hardship imposed on the individual property owner?

5. Is the subject property suitable for the zoned purpose?

6. Has the length of time the property has been vacant as zoned been excessive, considering the context of land development in the area in the vicinity of the subject property?

7. Is there a community need for the proposed zoning or use?

Chapter 5.8: Amendments to the Comprehensive Plan Text or Map

Sections:

5.801 Purpose
5.802 Initiation of Amendments
5.803 Procedures

5.801 Purpose

The purpose of this chapter is to provide procedures by which changes may be made to the text or map of the Comprehensive Plan. The Comprehensive Plan is a comprehensive long-range guide for orderly growth, development and redevelopment in the community.

5.802 Initiation of Amendments

A. ***City Initiated Amendments.*** The City Council or Council committee(s), the Plan Commission, or Community Development Director may initiate an amendment to the map or text of the Comprehensive Plan. An amendment shall be initiated by motion, except those initiated by the Community Development Director.

B. ***Property Owner Initiated Amendments.*** A property owner or an agent authorized in writing may apply for an amendment to the map or text of the Comprehensive Plan governing the property.

C. ***Timing.*** Applications for Comprehensive Plan amendments may be filed at any time.

5.803 Procedures

A. ***Pre-Application Review.*** All applications to amend the map or text of the Comprehensive Plan shall be subject to pre-application review pursuant to the procedures set forth in Chapter 5.2: Common Procedures.

B. ***Application.*** Applications shall be filed in accordance with the application procedures set forth in Chapter 5.2: Common Procedures.

C. ***Public Notice.*** Public notification shall be provided in accordance with Section 5.205: Notice of Public Hearings.

D. ***Notice to Other Jurisdictions.*** Notice of amendments to the Comprehensive Plan shall be given to other affected jurisdictions within 1000 feet of any property that is the subject of a Comprehensive Plan amendment application.

E. ***Staff Report.*** The Director of Community Development shall prepare a staff report and transmit it to the Plan Commission. A copy of the staff report shall be made available to the public and the applicant prior to the public hearing. The

report shall include an assessment of whether the proposed change conforms to the relevant goals and policies of the applicable Elements of the Plan. The report may be supplemented to accommodate information provided at the public hearing; the supplemented report shall be made available per the requirements of the initial report. A report for an amendment to the Land Use Map shall also include an assessment of the ability of the City's infrastructure to serve permitted development of the property if the Official Zoning Map were to be amended as proposed.

F. ***Plan Commission Hearing.*** The Plan Commission shall conduct a public hearing for Comprehensive Plan amendments. The Plan Commission shall conduct the hearing as set forth in Chapter 5.2: Common Procedures.

G. ***Plan Commission Action.*** The Plan Commission may recommend approval, approval with modifications or denial of the proposed amendment to the Committee of the Whole.

H. ***Committee of the Whole Action.*** The Committee of the Whole shall consider the recommendations of the Plan Commission and staff, public testimony, and shall recommend an ordinance approving, approving with modifications or denying the proposed amendment to the City Council.

I. ***Council Action.*** The City Council may approve, approve with modifications or deny the application by the adoption of an ordinance.

Chapter 6: Glossary

Abutting or Adjoining. Having one or more boundaries in common**.** For streets, abutting or adjoining shall mean a lot or parcel touching the street at any point.

Accessory Entry Monument. An architectural structure signifying and marking a major arrival point to a multiple-tenant commercial or employment project.

Accessory Use (Incidental Use). The use of a building or land which is subordinate to the principal use of the building or land on the same lot or parcel.

Accessory Structure. A detached permanent subordinate structure separated a minimum of three feet including eave overhang from the principal structure, the use of which is incidental to the use of the principal structure, and which is located on the same zoning lot or parcel as the principal structure. Common accessory structures are garages, parking canopies, storage sheds and cabanas. Signs, swimming pools, arbors, trellises, and fences are not accessory structures.

Acreage, Gross. The land area within the perimeter of a parcel or project, including one-half the right-of-way of all adjoining public streets, railroad rights-of-way and other land dedications.

Acreage, Net. The land area of a parcel or project excluding land to be dedicated or reserved for streets, schools, parks or other public facilities.

Adjacent. Abutting or adjoining.

Adult Arcade. Any place to which the public is permitted or invited, wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting "specified sexual activities" or "specified anatomical areas."

Adult Bookstore, Adult Novelty Store, or Adult Video Store. A commercial establishment which has as a substantial or significant portion of its stock in trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

A. Books, magazines, periodicals, or photographs, films, motion pictures, videocassettes, compact or laser discs, slides, software or other visual representations, which are characterized by their emphasis upon the exhibition or display of "specified sexual activities" or "specified anatomical areas;"

B. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

A. Persons who appear seminude; or

B. Live Performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas."

Adult Day Care, Residential. Day care provided in an occupied residential structure for more than 5 adults.

Adult Motion Picture Theater. Any commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, compact discs or similar photographic reproductions are regularly shown which are characterized by the exposure of specified sexual activities or specified anatomical areas.

Adult Show or Adult Theater. Any theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear nude or seminude, or live performances which are characterized by the exposure of specified anatomical areas, or by specified sexual activities.

Adverse Impact. A negative consequence to the natural, social, or economic environment resulting from an action or project.

Agriculture. The use of land for soil tillage for the production of crops, dairying, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry. Agriculture includes accessory uses for packing, treating and storing of produce if secondary to the primary agricultural use.

Agritainment. Agriculturally-based recreation and entertainment events and activities in conjunction with on-going agricultural uses on a property. Activities may include corn mazes, hayrides, petting zoos, Farm Stands, and Farmer's Markets.

Alteration. Any enlargement, addition, relocation, repair, remodeling, change in number of living units, development of or change in an open area, development of or change in a sign, demolition or removal, or other change in a facility for which a building permit is required, excluding ordinary maintenance.

Alternative Wireless Communication Facility Building Element. A building element designed to conceal and/or camouflage wireless communications facilities, including but not limited to a wall mount, clock tower, cupola, or church steeple.

Chapter 6: Glossary

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Accessory Structure. A detached permanent subordinate structure separated a minimum of three feet including eave overhang from the principal structure, the use of which is incidental to the use of the principal structure, and which is located on the same zoning lot or parcel as the principal structure. Common accessory structures are garages, parking canopies, storage sheds and cabanas. Signs, swimming pools, arbors, trellises, and fences are not accessory structures.

Acreage, Gross. The land area within the perimeter of a parcel or project, including one-half the right-of-way of all adjoining public streets, railroad rights-of-way and other land dedications.

Acreage, Net. The land area of a parcel or project excluding land to be dedicated or reserved for streets, schools, parks or other public facilities.

Adjacent. Abutting or adjoining.

Adult Arcade. Any place to which the public is permitted or invited, wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting "specified sexual activities" or "specified anatomical areas."

Adult Bookstore, Adult Novelty Store, or Adult Video Store. A commercial establishment which has as a substantial or significant portion of its stock in trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

A. Books, magazines, periodicals, or photographs, films, motion pictures, videocassettes, compact or laser discs, slides, software or other visual representations, which are characterized by their emphasis upon the exhibition or display of "specified sexual activities" or "specified anatomical areas;"

B. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

A. Persons who appear seminude; or

B. Live Performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas."

Adult Day Care, Residential. Day care provided in an occupied residential structure for more than 5 adults.

Adult Motion Picture Theater. Any commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, compact discs or similar photographic reproductions are regularly shown which are characterized by the exposure of specified sexual activities or specified anatomical areas.

Adult Show or Adult Theater. Any theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear nude or seminude, or live performances which are characterized by the exposure of specified anatomical areas, or by specified sexual activities.

Adverse Impact. A negative consequence to the natural, social, or economic environment resulting from an action or project.

Agriculture. The use of land for soil tillage for the production of crops, dairying, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry. Agriculture includes accessory uses for packing, treating and storing of produce if secondary to the primary agricultural use.

Agritainment. Agriculturally-based recreation and entertainment events and activities in conjunction with on-going agricultural uses on a property. Activities may include corn mazes, hayrides, petting zoos, Farm Stands, and Farmer's Markets.

Alteration. Any enlargement, addition, relocation, repair, remodeling, change in number of living units, development of or change in an open area, development of or change in a sign, demolition or removal, or other change in a facility for which a building permit is required, excluding ordinary maintenance.

Alternative Wireless Communication Facility Building Element. A building element designed to conceal and/or camouflage wireless communications facilities, including but not limited to a wall mount, clock tower, cupola, or church steeple.

Alternative Wireless Communication Facility Light Pole. A new or existing light pole, used for area illumination, which also includes Wireless Communication Facility antenna facilities that are secondary to the illumination purpose.

Alternative Wireless Communication Facility Structure. A structure designed to conceal and/or camouflage wireless communications facilities. Structures may include but are not limited to a free-standing structure such as an artificial tree. Alternative structures do not include a flagpole, monopole with an attached flag, or a monopole with a minimal design feature.

Amateur Radio Facilities. Equipment and structures used for airway communication purposes by persons holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.

Ambulance Services. A facility for the provision of emergency and non-emergency medical transportation, including the parking and dispatching of ambulances, but excluding the maintenance of vehicles.

Amplified Artistic Performance: A Use where amplified music, singing, spoken word or other similar audio entertainment or performance is provided.

Animal Raising, Non-Commercial. The keeping, grazing or feeding of fowl or animals not for profit.

Animal Services. Facilities for care and treatment of animals, including incidental sales of pet supplies.

Animal Grooming. Any place or establishment where animals are bathed, clipped, or combed and a fee is charged for such services.

Animal Shelter. A facility used to house or contain stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a public body, humane society, animal welfare society, society of the prevention for cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Animal Training. An establishment where animals are brought and trained for the purposes of obedience, assistance, tricks or tasks. Animal Training does not include overnight boarding.

Kennel. Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding, or care of dogs, cats, pets, fowl or other domestic animals for a fee, but not including boarding, breeding or care of animals used for agricultural purposes. Ancillary services such as animal grooming and the sale of animal food and supplies are permitted.

Large Animal Hospitals. Animal services for large domestic and farm animals, including grooming and boarding of animals receiving medical treatment.

Pet Café. An establishment where customers may interact with domestic animals that are from an affiliated adoption agency or animals under the care of the establishment, in a separate animal enclosure. It may also offer the sale of food or beverages and may be charged a fee for their access to a pet enclosure. An Animal Cafe shall not board outside animals.

Small Animal Clinics. Veterinary services for small animals, including grooming and interior kennels for boarding of animals receiving medical treatment.

Antenna. Any system of poles, panels, rods, dishes, wires or similar devices used for the transmission or reception of wireless signals.

Antenna Support Structure. A freestanding support, other than a building or building element, to which one or more antennas are mounted.

Apartment Building. A multi-family residential structure under single ownership containing 3 or more dwelling units for lease.

Arbor: An architectural structure forming a passageway of vertical posts or pillars that usually support cross-beams and a sturdy open lattice that may or may not support vegetation. An arbor may also be known as a pergola.

Auction. *(See Swap Meet)*

Automated Teller Machine (ATM). An automated device that provides banking services.

Automated Teller Machine (ATM), Remote. An outdoor, freestanding automated device that provides banking services at a location physically separated from the controlling financial institution, either on or off of the property containing the controlling financial institution.

Awning. A roof-like cover entirely supported by and extending from a building for the purpose of protecting openings from the elements, providing shade or architectural embellishment.

Backhaul Network. The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Balcony. A platform that projects from, and is solely supported by, the wall of a building, typically above the first level, and is surrounded by a rail, balustrade, or parapet.

Banks and Other Financial Service Institutions. Establishments that provide retail banking, credit, and mortgage services to individuals and businesses. This classification includes banks and savings and loan establishments, credit unions.

Banquet Facility. An establishment rented to others for social gatherings, including outdoor assembly.

Basement. (See Batavia Municipal Code, Title 9, Building Codes) That portion of a building that is partly or completely below grade plane. A basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is:

A. More than 6 feet above grade plane; or

B. More than 12 feet above the finished ground level at any point.

Bed and Breakfast Homes. Owner-occupied dwellings providing lodging and meals to paying guests for a limited duration. Kitchen facilities are not provided for use by guests.

Berm. An earthen mound designed to provide visual interest, screen objects from view, reduce noise, or control drainage flows.

Block. The smallest area of land bounded by adjacent streets, drainage ways, bodies of water, shorelines, railroads, open space, corporate or subdivision boundaries.

Block Face. The portion of a block that abuts a street**.**

Brewery or Distillery. A facility that produces, packages and distributes beer, cider, mead, and/or spirits. A brewery may include a tasting room where beverages may be consumed on site or in sealed containers for consumption off site. For zoning purposes a facility referred to as a brewery may otherwise be referred to as a Distillery.

Brewpub. A restaurant that includes a small brewery where beverages are sold for consumption on site or in sealed containers for consumption off site.

Building. Any structure for the shelter or support of any use or occupancy, or a structure as defined by a Building Code adopted by the City of Batavia.

Building, Detached. A building or structure separated from any other building or structure.

Building Envelope. The volume of space for building as defined by the minimum building setbacks and the maximum allowable building height.

Building Height. The vertical distance from grade plane to the highest level of the parapet or roof surface of flat or mansard roofs, or to the mean height between eaves and ridges of gable, gambrel, or hip roofs. Chimneys, spires, uninhabitable architectural elements and similar projections are not included in the calculation of building height.

Building, Main or Principal. A building where the principal use of a lot is conducted.

Building Maintenance Services. Establishments providing carpet cleaning, janitorial services, pool services, and similar uses.

Building Material and Home Improvement Sales and Service, Retail. Sale or rental of building or landscaping materials, supplies, hardware or construction equipment to the public.

Building Material and Home Improvement Sales and Service, Wholesale. Sale of building or landscaping materials, supplies, hardware or construction equipment to other firms for resale or distribution. Incidental retail sales may be conducted.

Building Step-Back. A required setback for a portion of a building above the first floor.

Building Wall. The exterior of any side of a building.

Build-To Line. The maximum distance a building may be set back from a property line.

Business Services. Establishments providing document delivery, mail services and boxes, package services, blueprinting, copying, desktop publishing and photographic services.

Call Center. A large-scale office providing incoming and outgoing telephone and computer services for one or more corporations. Call centers do not provide on-site customer services and are characterized by high employee density, open offices and 24 hour operations.

Cannabis Business Establishment. A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

Cannabis Craft Grower. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Cultivation Center. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Illinois Compassionate Use of Medical Cannabis Pilot Program Act (P.A. 98-112) or Cannabis Regulation and Tax Act, (P.A.101-0027), as they may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Dispensary, Medical. An establishment licensed by the State of Illinois under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act that acquires medical cannabis from a licensed Cultivation Center for the purpose of dispensing cannabis, cannabis derived products, paraphernalia or related supplies and education material. A Medical Cannabis Dispensary shall not dispense cannabis for recreational use.

Cannabis Dispensary, Recreational. An establishment, other than a medical cannabis dispensary, that dispenses cannabis, cannabis derived products, paraphernalia or related supplies as permitted by the laws of the State of Illinois.

Cannabis Infuser Organization (Infuser). A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Processing Organization (Processor). A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Transporting Organization (Transporter) An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A.101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Canopy. A roof-like cover partially supported by poles or columns affixed to the ground and partially supported by a building.

Carnival. (*See Batavia City Code Title 3: Business and License Regulations*)

Carport. A roofed structure not fully enclosed by walls for the purpose of providing shelter for one or more vehicles.

Circus. *(S*ee *Batavia City Code Title 3: Business and License Regulations*)

Cemetery. Burial grounds for the interment of the human deceased.

Cemetery, Pet. Burial grounds for the interment of domestic animals.

Child. Any person generally under 18 years of age as defined in Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01].

Child Care Facility. Any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child Care Facility includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

Child Care Institution. A child care facility where 8 or more children are received and maintained for the purpose of providing them with care or training or both. The term Child Care Institution includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

A. Any State-operated institution for child care established by legislative action;
B. Any juvenile detention or shelter care home established and operated by any county or child protection district;

C. Any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act [210 ILCS 45];
D. Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or elementary and high schools, and which operates on a regular academic school year basis;
E. Any facility licensed as a "group home" as defined in the Child Care Act of 1969 (Section 2.06 of the Child Care Act of 1969)

Child Day Care, Home Occupation. A permanent residential unit where an occupant provides day care and supervision for more than 3, but fewer than 13 children, including all children 12 or under residing within the unit, whether or not for compensation, for less than 24 consecutive hours.

Clubs and Lodges. Meeting or social facilities primarily for use by members or guests of an organization. Examples include union halls, fraternal and service organizations, and social clubs.

Co-Location. The use of a single support structure and/or site by more than one telecommunications provider.

Colleges, Public or Private. Institutions of higher education (post-secondary) providing curricula of a general, religious, or professional nature, typically granting recognized degrees, including conference centers and academic retreats associated with such institutions. This classification includes business and computer schools, management training, technical and trade schools, but excludes Instructional Services, Specialized.

Commercial Center. A group or cluster of retail shops, offices, or employment buildings which share common parking, landscaping, and/or frontage, and may have a property owners association and have a name which is generally understood by the public to refer to the group or cluster.

Commercial Building, Multiple Tenant. A commercial building with 2 or more separate tenants having individual entrances and shared parking.

Common Driveway. A driveway providing a shared access to 2 or more lots or uses.

Community Garden. A public or private effort for the cultivation of land by more than one person or entity.

Congregate Living Facility. A long-term residential facility for persons of a specific minimum age, handicapped or other special needs persons. Congregate living facilities include common dining, social, and recreational amenities. Congregate living facilities may include independent living units and Nursing Homes but only as part of a larger facility. Limited commercial services may be provided exclusively for residents.

Contiguous Lot or Parcel. Lots or parcels that are adjacent at one or more points.

Contractor's Yard. A facility for the outdoor storage of materials, equipment, and commercial vehicles used in construction, building maintenance, landscaping and similar activities, including incidental office space.

Conference Center. A facility used for assemblies or meetings. This classification excludes Clubs and Lodges, or other meeting facilities of private or non-profit groups that are primarily used by group members.

Cornice. Any projecting horizontal molding that finishes or crowns the top of a building, wall, arch or similar architectural feature.

Crematorium. A facility for the cremation of human or animal remains.

Crop and Animal Raising, Commercial. The growing of tree, vine, field, forage, and other plant crops, and the keeping, grazing, or feeding of fowl or animals for animal products, animal increase, and value increase for profit.

Crop Raising, Non-Commercial. The growing of tree, vine, field, forage, and other plant crops, not for profit.

Cultural Institutions. Museums, publicly owned or not-for-profit historic sites, art galleries, performing arts facilities, libraries, and similar uses.

Currency Exchange. An establishment that exchanges common currencies, sells money orders or cashier checks, or provides check cashing services, for a fee.

Day Care, Adult. The care and supervision of a person or persons over 12 years of age for periods of less than 24 hours per day, in a place other than the person's own home or homes.

Day Care, Child. The care, supervision, and guidance of a child or children through the age of 12 years, unaccompanied by parent, guardian or custodian, for periods of less than 24 hours per day, in a place other than the child's or the children's own home or homes.

Day Care Home. See *Child Day Care, Home Occupation***.**

Decision-Making Body. Any individual, officer, board, or commission representing the City authorized to approve, approve with modifications and/or conditions, or deny an application.

Deck. An unroofed exterior floor supported on at least one side by an adjoining structure, and /or posts, piers or other independent supports.

Dedication. The offer to convey land, an interest in land, or improvements to the City or other public agency for public use, and the acceptance of such offer by the City or public agency.

Density. The number of dwelling units per gross acre.

Development. The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new

use. Also means any man-made change to improved or unimproved real estate, including but not limited to parking, clearing of land, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Development Plan. The site plan, landscape plan, building elevations, civil engineering plans, design guidelines, residential lot layout, open space plan, and other plans submitted with an application for a Planned Development.

Development Plan Amendment. Any change to an approved Development Plan. A major change is one that significantly alters the approved plan elements of density, site configuration, building bulk or elevations. The Community Development Director may determine a Development Plan Amendment to be a minor change if it does not significantly alter one of the above elements.

Dining, Outdoor. An exterior area where food or beverage is served, or is used as seating for a contiguous Eating and Drinking Establishment.

Disability. A physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such an impairment; or being regarded as having such an impairment.

Distillery. (See Brewery or Distillery)

Drive-Through Facility. A facility for the provision of services to customers in motor vehicles. Drive-through facilities do not include Eating and Drinking Establishments that serve food to customers in parked vehicles.

Driveway, Major. The principal vehicular access drive from an arterial street serving a nonresidential or multi-family development where inbound left turn movements are permitted. Developments may have more than 1 major driveway.

Driving Range. An establishment, which allows customers to practice golf drives and golf swings from a central golf tee location outdoors.

Dry Cleaning and Laundry Outlet. A retail facility where clothing and other fabrics are cleaned or laundered, by employees. Tailoring and similar services may be offered.

Dry Cleaning and Laundry Central Plant. A facility for cleaning or laundering fabrics, textiles, clothing, uniforms or similar items which does not include customer drop off.

Dwelling Unit. A single residential unit or portion thereof providing complete, independent living facilities for 1 Family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling Unit, Attached. A building containing 2 or more dwelling units, connected along and sharing 1 or more common walls, or 1 or more dwelling units stacked above another.

Easement. A grant by a property owner to others for the use of land or airspace for a specific purpose or purposes.

Easement, Vehicular Non-Access. A recorded easement prohibiting access or crossing by vehicles.

Eating and Drinking Establishments. Businesses that primarily engage in the sale of food or beverages for consumption on or off the premises. Dancing, live music, or other similar live entertainment may be offered.

> *Bars/Taverns/Night Clubs/Lounges.* Eating and Drinking Establishments that derive 50 percent or more of their gross revenues from the sale of alcoholic beverages for consumption on the premises. Serving of food is only incidental to the sale of alcoholic beverages. This classification excludes Sexually Oriented Businesses.
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> *Restaurants, Full Service.* Eating and Drinking Establishments providing food and beverage service to patrons who order and are served while seated at tables, and pay after eating. Gross revenues from the sale of alcoholic beverages are less than 50 percent of total gross sales. Takeout service may be provided.
>
> *Restaurants, Limited Service.* Eating and Drinking Establishments providing pre-packaged food or food prepared on-site, sold to patrons who pay before eating. Food and beverages may be consumed on the premises, taken out, or delivered. Limited or no table service is provided. This classification includes cafeterias, cafes, fast-food outlets, pizzerias, and snack bars.

Electric Vehicle (EVs). Vehicles that store electric energy to be used for propulsion.

Electric Vehicle Charging Equipment. The conductors and electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

Electric Vehicle Charging Infrastructure. Providing the necessary electrical equipment including panels with circuits breakers, switchboards, transformers, conduit, wiring, junction boxes, and other interconnections necessary to deliver electrical power.

Electric Vehicle Charging Station (EVCS). Equipment designed to safely supply and manage power into Plugin EVs. EV Charging Stations include hard-wired EV Charging Stations and EV Charging Stations that plug in to standard wall outlets and may also integrate communication, metering, GPS and other features that assist EV drivers and the host facility. An EVCS with four (4) chargers shall be considered an accessory use. A EVCS with greater than four (4) chargers shall be regulated as a Fueling Facility, Alternative.

Elevation, Architectural. A two-dimensional scaled drawing of a building or structure.

Entertainment and Recreation, Indoor. Public or private fitness centers, theaters, bowling alleys, skating rinks, billiard parlors and pool halls, amusement arcades, gymnasiums, sports courts, swimming pools, and similar uses. Incidental sales of food and beverages are permitted. The following uses are not entertainment and recreation uses: Firing Range, Indoor or Homeowners Association Facilities.

Large-Scale. Indoor entertainment and recreation uses that are greater than 10,000 square feet of building area.

Small-Scale. Indoor entertainment and recreation uses 10,000 square feet or less of building area.

Entertainment and Recreation, Outdoor. Public or private parks, playgrounds, open spaces, playing fields, sports courts, driving ranges not in conjunction with a Golf Course, swimming pools, amphitheaters, miniature golf courses, go-kart tracks, zoos, and similar uses. Incidental sales of food and beverages are permitted.

Equipment Cabinet or Building. An enclosure or structure used by telecommunications providers to house telecommunications equipment.

Existing Vertical Element. Any existing monopole, tower, flagpole or exhaust stack performing a non-WCF function. Existing vertical element does not include a building.

Facade. That portion of any exterior elevation of a building extending from grade to top of the parapet, wall, or eaves, and extending the entire width of the building elevation.

Family. An individual or two or more persons occupying a dwelling and living together as a single nonprofit housekeeping unit.

Farm Stand. A structure used for the sale of produce or agricultural product produced on the property.

Farmers' Market. The sale of agricultural products, arts and crafts, and prepared food by individual vendors at an open-air market, excluding games and rides.

Fence. A full or partial barrier made of wire, wood, metal, masonry, PVC or other similar material. Vegetative material, tennis and basketball court enclosures are not considered to be fences.

Fence, Solid. A fence that provides total opacity.

Fence, Open. A fence that provides 50% or less in opacity.

Firing Range, Indoor. A facility, located in a principal structure, where members of the general public, or members of a club or organization, discharge firearms for target practice or competition of skills.

Firing Range, Outdoor. A facility, on a property having a principal structure, where members of the general public or members of a club or organization, discharge firearms for target practice or completion of skills in an outdoor location specifically designed for firing at targets.

Floor Area, Gross. The total area in square feet of all floors designed for tenant occupancy and common use, including attached and detached garages, basement area that is more than 50% above grade plane, mezzanines, stairwells, and storage areas, measured from the

centerline of interior partitions and from outside wall faces. Non heated or air conditioned courtyards and accessory structures 120 square feet or less shall not be considered in gross floor area calculations.

Floor Area Ratio (FAR). The gross floor area of a building or buildings on a lot divided by the net lot or parcel area**.**

Food Preparation. A facility that prepares food and beverages for off-site consumption.

> *Large-Scale.* A food preparation facility that produces packaged foods and beverages for sale and distribution primarily to other businesses, including incidental on-site retail sales.
>
> *Small-Scale.* A food preparation facility that produces food and beverages primarily for sale to the general public. This classification includes catering kitchens and the production of specialty foods.

Fortune-Telling Business: An establishment that provides advice, prediction or interpretation of events through the use of astrology, card, palm or tea reading, crystal gazing, divination, psychometry, phrenology or other similar methods to foretell the future in exchange for financial consideration.

Front Plane. The portion of a building, including a covered porch that extends across a minimum of 40% of the width of the building, but excluding that part of a porch that is uncovered, that is located closest to the front property line. Allowed encroachments, other than a covered porch, do not constitute the front plane of a building.

Frontage, Building. The length of the side of a building abutting or generally parallel to the front lot line.

Frontage, Lot. That part of a lot or parcel abutting a street.

Frontage, Street. The total length of all lot lines abutting streets**.**

Funeral and Undertaking Services. Establishments primarily engaged in the care and preparation of the human deceased and the conduct of funeral services. Typical uses include funeral parlors and chapels, or mortuaries, but excluding Cemeteries. Cremation services may be included as an ancillary use.

Garage, Attached. An enclosed portion of a principal structure designed for vehicle storage or parking.

Garage, Detached. An enclosed structure sized for vehicle storage or parking that is separated from the principal structure by a minimum of three feet including eave overhang and has a door opening greater than 7.5 feet wide.

Garage, Side-Entry. An enclosed structure for the storage of vehicles oriented such that the entrance is a minimum angle of at least 45 degrees from the front setback line.

Garage Sale. A sale of personal property, open to the public, conducted on an occupied residential property. A garage sale includes all sales titled garage, lawn, yard, attic, patio, or rummage sale.

Garden Supply Stores and Plant Nurseries. Establishments engaged in the retail sale of garden supplies and plants grown on the premises or elsewhere. This classification includes the incidental sales, repair and rental of landscape materials and equipment.

Golf Course. Land with at least nine holes for playing golf and which is improved with tees, greens, fairways, and hazards. Clubhouses, maintenance buildings, cart storage facilities, pro shops, restaurants or driving ranges may be incidental uses. The following use is not a golf course: miniature golf course.

Government Offices and Facilities. Offices and facilities used by governmental entities for their governmental or proprietary purposes. This classification excludes airports, Utilities, and Public Safety Facilities.

Grade, Existing. The level of the ground or pavement at a specific location as it exists prior to disturbance in preparation for development**.**

Grade, Finished. The final elevation of the ground surface after man-made alterations.

Grade Plane. A reference plane representing the point of a grade from which building or structure height is measured.

Grade Plane, Accessory Structure. The median elevation along the structure's base that is closest to a property line.

Grade Plane, Principal Structure Set Back Less than 30 feet. The average of the median elevation at a property's front lot line and the median elevation at the required front minimum or maximum setback.

Grade Plane, Principal Structure Set Back 30 feet or More. The median elevation along the structure's base at its Front Plane.

Grade, Street. The top of the curb, or where no curb exists, the top of the edge of pavement**.**

Grand Opening. A promotional activity that introduces, promotes or announces a new business establishment or an existing business establishment upon completion of a building addition or renovation. A Grand Opening does not mean an annual or occasional promotion by a business.

Group Home. A lawfully established facility in a residential building housing not more than 10 persons with disabilities who receive care, supervision, or counseling from 1 or more staff persons. The group home constitutes a single housekeeping unit and residents typically share responsibilities, meals, and recreation. This use includes assisted living homes, homes for the mentally ill, halfway houses, group care agencies and similar residential living arrangements for persons with disabilities, but shall not include boarding houses, Nursing Homes, or a Shelter Care Facility.

Guest Quarters. A permanent accessory structure used for the temporary housing of family members and non-paying guests, which does not include built-in cooking facilities, and is not equipped for kitchen appliances requiring 220-volt electric service or natural gas.

Handicapped. A person who has a physical or mental impairment which substantially limits one or more major life activities. Handicapped shall not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 United States Code 802]).

Haunted House. A combination of displays, acts, exhibits, or other attractions intended to entertain or amuse patrons related to Halloween themes and images.

Health Care Facilities

Hospital. A facility licensed by the State of Illinois that provides diagnosis and treatment of patients and inpatient care by a medical staff. Hospitals may include associated medical facilities, including offices, clinics, laboratories, diagnostic centers, wellness facilities and similar uses.

Medical Offices and Clinics. An outpatient facility providing medical, dental, chiropractic and/or psychiatric services, as well as medical and dental laboratories incidental to the medical office use. This classification includes home health agencies.

Urgent Care Facility. A facility that provides emergency or urgent medical services with no provision for continuing care on an inpatient basis.

Hearing Officer. An attorney appointed by the City Council to hear and decide administrative matters pursuant to the Batavia Municipal Code.

Height, Antenna. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Height, Building. (See Building Height)

Height, Story. The vertical distance from top to top of two successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Heliport/Helipad. A public or privately-owned facility for takeoff and landing of helicopters.

High Turnover Use. A land use that is characterized by high vehicle trip generation per square foot of building area, in excess of 100 vehicle trips per 1,000 square feet per day, as identified in the Trip Generation Manual by the Institute of Traffic Engineers.

Home Occupation. A business or profession conducted by the residents of a dwelling unit in a residential district.

Homeowners Association Facilities. Private club houses, dining facilities, swimming pools, parks and open space, sports courts, play fields, lakes, ponds, stormwater management and similar facilities owned by and principally for the use and benefit of association members. Homeowners Association Facilities include facilities owned and operated by apartment complexes for use by tenants.

Homeowners or Property Owners Association. A nonprofit corporation or unincorporated association of owners created pursuant to a declaration of restrictions to own and operate portions of a development and which has the power under the declaration to assess association members to pay the costs and expenses incurred in the performance of the association's obligations under the declaration.

Hospice. A freestanding licensed facility that provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting.

Hotels and Commercial Lodging. Establishments offering transient lodging including motor lodges, motels, hostels, extended stay hotels, and timeshare facilities. This classification excludes Group Homes, apartments and other facilities intended for long-term occupancy. These uses may provide accessory services, such as conference and meeting rooms, restaurants, bars, and recreation facilities available to guests or to the general public. Short term rental/leasing of Single Family residential, condominiums, townhouses and loft units for less than 30 days is considered a Hotels and Commercial Lodging use.

Illegal Use. An activity that is not allowed.

Improvement. Any man-made change to a property at, above, or below grade.

Improvement, Off-Site. Any improvement required by the City for streets, utilities, landscaping, trails or other public purposes, adjacent to or in the vicinity of another improvement project.

Improvement Plan. A plan submitted by a registered professional engineer showing the location and construction details of streets, drainage facilities, utilities, landscaping, lighting, or any improvement required for a subdivision or other improvement project.

Incidental Display. A limited area on a property not in an outdoor storage area or associated with a Temporary Use, on which merchandise otherwise offered for sale on the premises may be located and intended to visible from the street.

Incidental Use. See Accessory Use

Infill Lot. Any lot which was a lot of record prior to April 19, 1971, and is bounded on one or more sides by lots with existing buildings.

Instructional Services, Specialized. Provision of instructional services including: arts, crafts, dance or music studios, diet centers, driving schools, martial arts, reducing salons, tutoring and similar uses.

Interior Building Separation. The distance between exterior walls of buildings on a zoning lot.

Laboratories, Commercial. Medical, dental, imaging, and similar indoor testing facilities.

Laboratories, Industrial. Facilities for the testing or analysis of environmental, industrial, or similar products or materials.

Laboratories, Research. See *Research and Development*.

Landscape Wall. An exterior decorative linear masonry or timber structure less than 3 feet in height, not enclosing a yard.

Landscaping, Interior. A landscaped area or areas within the shortest circumferential line defining the perimeter or exterior boundary of the parking or loading area, or similar paved area, excluding driveways or walkways providing access to the facility (as applied to parking and loading facilities or to similar paved areas)**.**

Laundry Services. Establishments that provide washing, drying, and dry cleaning facilities for clothing or other fabrics in machines operated by patrons.

Lighting Related Terms

Cutoff, Full. Fixtures constructed so that light rays emitted, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane extending from the lowest point on the fixture where light is emitted.

Cutoff, Semi-. Fixtures constructed so that the bottom edge of the lens extends below the bottom plane of the fixture, and that allow some light to extend above a horizontal plane extending from the lowest point on the fixture where light is emitted.

Foot-candle. A measure of light intensity representing the amount of light received by 1 square foot of a surface located 1 foot from a point source of light equivalent to one candle in brightness or illumination.

Outdoor Light Fixture. Artificial outdoor lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices include, but are not limited to: search, spot or flood lights; security lights; parking lot lighting; landscape and trail lighting; street lights; signage lighting; exterior building illumination, and similar light sources. Traffic lights and signals are not outdoor light fixtures.

Limited Access Highway. A street to which the owners of abutting property have no legal right of access, except at such locations and in such manner as may be determined by the public agency having jurisdiction over the street.

Livestock. Horses, ponies, mules, cattle, sheep, goats, fowl, poultry or swine.

Lot. A unit of land shown on a recorded subdivision plat, record of survey map, parcel map, or recorded as a metes and bounds description.

Lot Area. The area bounded by the lot lines, exclusive of rivers, streets and areas in future streets as established by easement, dedication, or ordinance.

Lot of Record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the recorder of deeds of Kane County; or a parcel of land, the deed to which was recorded in the office of said recorder of deeds prior to April 19, 1971.

Lot, Zoning. A single tract of land used or occupied for any principal use or structure and its accessory use(s) or structure(s), whether permitted, conditional, or nonconforming. A zoning lot may consist of one or more lots or portions of lots in a recorded subdivision, one or more lots or portions of lots of record, or a tract of land described by metes and bounds.

Lot Coverage. That percentage of a lot covered by or allowed to be covered by buildings and structures.

Lot Depth or Length. The depth or length of a lot shall be:

1. If the front and rear lines are parallel, the shortest distance between such lines.

2. If the front and rear lines are not parallel, the shortest distance between the midpoint of the front lot line and the midpoint of the rear lot line.

3. If the lot has more than 4 sides, the shortest distance between:

    a. A straight front lot line, or a line tangent to a curved front lot line; and

    b. A 30 foot long assumed rear lot line lying parallel to the front lot line in a above, lying within the lot.

Lot Line. Any property line bounding a lot.

Corner Side. A lot line abutting a street that is not a front or rear lot line.

Front. The front lot line shall be determined as follows:

Corner Lot. The front lot line of a corner lot is the shortest lot line abutting a street from which access may be taken**.** The Planning and Zoning Officer may establish the front lot line as the longer street frontage if fewer existing non-conforming lot development conditions would result. If the street lot lines are the same length, the front lot line shall be the line that creates the fewest number of existing non-conforming lot development conditions.

Double-Frontage (Through) Lot. Each frontage from which access is permitted shall be deemed a front lot line. The front lot line for lots having vehicular access only via an alley shall be the lot line adjacent to the local or collector street.

Flag Lot. The front lot line of a flag lot shall be determined at the time of a Final Subdivision Plat. If no Final Subdivision Plat is required, the front lot line shall be the furthest lot line segment from the lot line segment that abuts the street that is not the property's rear lot line.

Interior Lot. The front property line of an interior lot shall be the line abutting a street.

Other. For lots other than the types listed above, front lot lines shall be established at the time of Final Subdivision Plat. If no Final Subdivision Plat is required, the front lot lines shall be established by the City Council during approval of a Conditional Use or Variance, or by the Planning and Zoning Officer at the time a building permit is issued.

Interior. A lot line not abutting a street**.**

Rear. That lot line opposite the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a lot line not less than 30 feet in length, lying within the lot and parallel to a line tangent to a curved front lot line, or parallel to a straight front line.

Side. Any lot line that is not a front lot line or a rear lot line**.**

Lot Types

Corner. A lot located at the intersection of 2 or more streets.

Double-Frontage. A lot having frontage on 2 or more non-intersecting streets**.** Double-frontage lots are also known as through lots.

Flag. A flag-shaped lot with its widest dimension set back from the street and having a narrow strip of land connecting to the street. Flag lots are also known as panhandle or pipe stem lots.

Interior. A lot having only one side abutting a street.

Reversed Corner. A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

Lot Width. The minimum distance between the side lot lines measured at the Front Setback.

Mail Order, Catalog Sales or Internet Sales. An establishment that receives and fills requests for merchandise or services through the mail, phone or Internet Sales. Such a use may include warehousing, shipping and receiving of merchandise intended for sale. This use does not include the sales of motor vehicles.

Maintenance. Ordinary upkeep, replacement, or repair of minor components of a building, structure, sign or landscaping. Maintenance includes repainting of buildings or structures to match existing colors.

Maintenance and Repair Services. Establishments providing repair services for personal and household goods, such as household appliances, television, audio or video equipment, office machines, furniture, luggage, and leather goods conducted entirely within an enclosed building. This classification excludes Vehicle Services, both Light and Heavy, and internal combustion engine repair.

Manufactured Home. See Trailer Coach.

Manufacturing and Assembly. Manufacturing and assembly of products primarily for sale to other businesses.

Artisan. Small-scale production of goods by hand manufacturing or assembly, involving the use of hand tools and small-scale equipment. Retail sale of goods produced on the premises may occur.

Light. Manufacturing, processing, assembly, packaging, printing, treatment, fabrication, and storage of finished or semi-finished parts or products. Light manufacturing and assembly uses are conducted within an enclosed building with incidental outdoor storage.

General. Manufacturing, processing, compounding, assembly, packaging, treatment or fabrication of parts or products, mass produced from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. General manufacturing and assembly uses are conducted either fully or partially within an enclosed building with limited off-site impacts. Products may require shipping by large trucks.

Heavy. Manufacturing, processing, compounding, assembly, packaging, treatment or fabrication of finished parts or products, mass produced from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Heavy manufacturing and assembly uses may be conducted entirely outdoors and have moderate to significant off-site impacts, including visual impacts. Uses involving radioactive or highly toxic materials or chemicals, highly combustible or explosive materials, or other materials and substances of a noxious nature in the manufacturing process are included in this classification. This classification includes, but is not limited to, steel fabrication, concrete block manufacturing, asphalt and concrete batch plants and truss plants. Products require shipping by semi-trucks or rail.

Marquee. A permanent structure attached to, supported by, and projecting from a building for the purpose of protecting openings from the elements, providing shade or architectural embellishment. A Marquee does not include an Awning or Canopy.

Massage Establishment: An establishment where massage for non-medical manipulation, massage, or similar stimulation to the human body is administered, whether by hand or with mechanical or electrical apparatus and with or without supplemental aids such as rubbing alcohol, liniments, antiseptics, oils, powders or creams. This definition excludes Entertainment and Recreation, Indoor uses such as fitness facilities or gymnasiums, medical or chiropractors' offices or other similar establishments where the practice of massage is an incidental service.

Media Studio. Establishments primarily engaged in the creation or editing of audio, video or film media. Typical uses include audio, video or film production and recording studios.

Median. A designated area in the approximate center of a street that is used to separate the directional flow of traffic. A median may be raised or painted.

Mining and Quarrying. The extraction of metallic and nonmetallic minerals or other natural resources, including quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining.

Mobile Home. See Trailer Coach.

Mobile Home Park. An area of land upon which two (2) or more occupied trailer coaches are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such trailer coach park.

Model Home(s). One or more uninhabited dwelling units used by a residential builder as models for the sales of residential lots and dwellings. Model home complexes may include a sales office, customer parking, a design and decorating center, and similar activities. **Monopole.** A single WCF pole attached to a permanent foundation.

Mural. An artistic rendering on a building or fence which does not promote a particular business, service or product, and that does not contain any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession, or business, or any logo, trademark, trade name, or other commercial message.

No-Impact Antenna Facility*:* An antenna facility that is either: a) virtually invisible to the casual observer, such as an antenna behind louvers on a building, or inside a steeple or similar structure; or b) camouflaged so as to blend in with its surroundings to such an extent that it is no more obtrusive to the casual observer than the structure which it is: 1) placed on, such as a rooftop, lighting standard, or existing tower; or 2) replacing, such as a school athletic field light standard.

Noise Related Terms

Ambient Noise Level. The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding any alleged offensive noise**.** In this context, the ambient noise level constitutes the normal or existing background level of environmental noise at a given location**.**

A-Weighted Sound Level. The total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of 20 micropascals using the A-weighted network scale at slow response**.** The unit of measurement shall be defined as dBA or dBa**.**

Day/Night Level (DNL or Ldn). The 24-hour average sound level in A-weighted decibels, obtained after the addition of ten decibels to sound levels for the periods between 10 p.m. and 7 a.m. as averaged over a span of one year.

Decibel (dB). A unit for measuring the amplitude of sounds, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

Decibel, A-Weighted (dBA). A unit for describing the amplitude of sound as measured on a sound level meter that approximates the frequency response of the human ear using the A-weighted network.

Equivalent Sound Level (Leq). The equivalent, steady-state A-weighted sound level that in a stated period of time contains the same acoustic energy as the time-varying sound level during the same period.

Equivalent Sound Level, Hourly ($Leq_{(h)}$). The hourly value of Leq.

Nonconforming Lot or Parcel. A lawfully established lot or parcel that conformed to the dimensional requirements for the district in which it was located at the time of recordation.

Nonconforming Sign. A sign that was lawfully established prior to the effective date of the Zoning Code or of amendments thereto, or that was lawfully established but does not conform to the regulations for signs for the district in which it is now located.

Nonconforming Structure. A structure that was lawfully constructed under the provisions of the Zoning Regulations for the district in which it was located.

Nonconforming Use. A use of land that was lawfully conducted on the effective date of these Zoning Code or amendment thereto, but which does not conform to the current use regulations for the district in which the property is now located.

Nondomesticated Animals. Any species that is of the class of ferae naturae. (See Batavia Municipal Code, Chapter 4, Article B. Animals, Section 5-4B-2: Nondomesticated Animals)

Nonresidential Use. All uses other than single family and multi-family residential uses.

Nursing Home. A facility other than a hospital, licensed by the State of Illinois, that provides accommodation, personal assistance, and skilled nursing care to non-ambulatory residents who are dependent upon the services of others.

Offices, General. Professional or administrative offices. This classification excludes retail banking, financial service institutions, and offices incidental to retail, manufacturing and assembly, storage, or other principal uses.

Open Space. Any area of land or water permanently dedicated or designated for use for active or passive recreation areas, landscape buffers, flood control, storm water retention, or natural resource management.

Over-the-Air Reception Device. An antenna designed to:

A. Receive direct broadcast satellite service, including direct-to-home satellite services, or to receive or transmit fixed wireless signals via satellite and that is one meter (39.37 inches) or less in diameter; or

B. Receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite and that is one meter (39.37 inches) or less in diameter or diagonal measurement; or

C. Receive television broadcast signals.

For purposes of this definition, "fixed wireless signals" means any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location, but shall not include among other things, AM radio, FM radio, amateur ("HAM") radio, citizen's band ("CB") radio, and Digital Audio Radio Service ("DARS") signals.

Parapet. That portion of an exterior wall that extends above the roofline.

Parcel. (See Lot)

Parking Facilities. Outdoor lots and enclosed garages offering parking to the public when such use is not accessory to another land use.

Parking Field. An open, hard surface area devoted to vehicle parking.

Parking, Tandem. Two parking spaces arranged end-to-end.

Patio, Covered (also Deck, Covered). An attached roofed structure, open on one or more sides, whose use is for indoor-outdoor living and recreation.

Pawn Shops. Establishments engaged in the buying and selling of new or secondhand merchandise and offering loans in exchange for personal property.

Pedestrian, Sidewalk and Landscape Tract. A parcel of land designated on the final plat for the exclusive use by the public for pedestrian amenities and activities, including sidewalks and landscaping.

Personal Loan Agency. An establishment that provides personal loans to individuals in exchange for a personal check or title to a vehicle as collateral.

Personal Services. An establishment engaged in the provision of services of a personal nature. The accessory retail sales of products related to the service may also occur. This classification includes barbershop, beauty salon, cosmetologist, electrolysis, tanning salon, day spa, and nail salon, but excludes tattoo parlors or body piercing, except for piercing of ears.

Plat, Final. A record map of all or part of a subdivision essentially conforming to an approved preliminary plat.

Plat, Preliminary. A map showing a proposed subdivision, including supporting data.

Plat, Recorded. A final plat bearing all executed certificates of approval and recorded with the office of the Kane County Recorder.

Plat of Dedication. A record map identifying land or easements to be conveyed to others for street, utility, open space, sidewalk, trail, drainage, stormwater management or similar purposes.

Play Equipment. Freestanding apparatus designed to engage a person in recreational activity. Examples of such facilities typically include one or more slides, swings, climbing bars, jungle gyms, sandboxes, seesaw, climbing apparatus or similar items.

Playing Field: A lot or portion of a lot or property developed to host one or more outdoor games or recreation activities, including but not limited to baseball, football, soccer, softball or similar activity.

Porch. An attached, covered platform with stairs to grade and open on at least 2 sides located at the front and/or side of a dwelling unit.

Pre-existing Towers and Pre-existing Antennas. Any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date hereof, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Principal Structure. The main building or structure, designed for occupancy, on a lot or parcel**.**

Principal Use. The primary or dominant land use or activity occurring on a property.

Project. Any proposal for new or changed use of land or buildings, or for new construction, alteration, or enlargement of any structure.

Property, Business. Personal property owned, leased, or under the control of a business. Business property may include inventory, equipment, materials, supplies, and vehicles, including vehicles and equipment owned by others but used in conjunction with a business.

Property Line. (See Lot Line)

Property Owner. The owner of real property, or the authorized representative of the owner.

Property, Public. A lot or parcel owned or controlled by the City or other governmental entity, whether or not the City or governmental entity owns the property in fee.

Public Safety Facilities. Facilities for public safety and emergency services, including facilities that provide police and fire protection, public safety offices, forensic laboratories and training facilities.

Recreational Vehicle Park. A developed property providing spaces for short-term rental to occupied recreational vehicles.

Religious Assembly. Facilities for worship and other religious ceremonies with incidental religious education, religious bookstores, rectories and parsonages, offices, social services, day care, and community programs.

Research and Development. Facilities for research and development of products, including but not limited to technology-intensive fields such as chemical, biological, pharmaceutical, electronics and genetic research.

Residential Housing Types

Accessory Dwelling Unit. A Dwelling Unit on a nonresidential zoning lot, subordinate to the principal use on the parcel, such as a security guard residence or an on-site manager's residence in a mini-storage facility.

Single Family, Attached. A Dwelling Unit on an individual lot that has at least 1 wall in common with 1 or more other Dwelling Units, and not having one or more Dwelling Units above or below another**.** Attached single family dwellings may include townhouse buildings**.**

Condominium. Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate portions.

Single Family, Attached (Duplex). A structure containing solely 2 Dwelling Units, not including an Accessory Dwelling Unit or Secondary Dwelling Unit.

Loft Unit. A residential unit above a nonresidential use.

Multi-Family. A structure containing 3 or more Dwelling Units, including one or more Dwelling Units above or below another. Multi-family dwellings may include apartment buildings and residential condominiums. Multi-family housing may be in a mixed-use building with ground floor commercial space.

Secondary Dwelling Unit. A second, subordinate Dwelling Unit located on the same lot as the principal Dwelling Unit.

Single Family, Detached. 1 building containing 1 dwelling unit along with a Secondary Dwelling Unit, if present.

Studio Dwelling Unit. A Dwelling Unit comprised of a single habitable room for living and sleeping purposes, and having cooking and sanitary facilities**.**

Two Family Residential: See Single Family, Attached (Duplex)

Townhouse. A single structure consisting solely of three or more dwelling units having one or more unpierced walls abutting another dwelling, extending from ground to roof, and designed to have all exits open directly to the outside.

Residential, Permanent. Long-term living accommodations, excluding residential care facilities.

Retail Sales. The sale, rental, or lease of goods, products, or material directly to the consumer.

Retail Sales, Convenience. A retail establishment of less than 3,000 square feet offering a limited amount of groceries, household items, and automotive supplies. This classification may include incidental *Fueling Facilities, Limited Service Restaurants* with drive-through and *Automated or Self-Service Car Wash Facilities*.

Retail Sales, Furniture. Establishments selling furniture or a combination of furniture and appliances to the general public.

Retail Sales, General. Establishments engaged in the sale of merchandise, goods, and groceries. This classification includes rental services such as party supplies, clothing, video rental, and event furnishings. This classification excludes Building Material and Home Improvement Sales and Service, Furniture Retail Sales, Convenience Retail Sales, Commercial Vehicle/Equipment Sales and Rental, Motor Vehicle Sales and Leasing, Pawn Shops and Smoking Lounges.

Retail Sales Tax Producing Businesses. Businesses that generate 75% or more of their revenue from transactions that require payment of General Merchandise, Food and Drug, Motor Fuel, or Vehicle sales tax.

Retaining Wall. An engineered masonry or timber structure greater than 3 feet in height used to retain soil.

Right-of-Way. A strip of land owned in fee or less than fee by a public entity, railroad or utility, occupied by or planned for a street, utilities, railroad, sidewalks, trails, and similar facilities.

Rooming House. A nonowner-occupied dwelling that is not operated as a Bed and Breakfast Establishment, or as a Group Home or Nursing Home, or as a residence intended for permanent residency by one lease holder at a time, that is offered for rent to, or occupied by more than one lease holder. A Rooming House may also be known as a boarding house or multi-tenant house.

Salvage Yards or Junkyards. Storage, dismantling and recycling of vehicles, equipment, metals, tires or other used materials for sale as parts or raw material, including but not limited to, the collection, storage, exchange or sale of goods, used building material, used containers or drums, and similar articles or property.

Satellite Dish Antenna, Large. A satellite dish antenna exceeding 1 meter (39.37 inches) in diameter designed or used for receiving communications from a satellite.

Schools, Public or Private. Facilities for educational and/or classroom purposes operated by public or private educational institutions offering a general course of study at primary,

middle, or high school levels, including seminaries, study centers, athletic facilities, vocational and trade programs that are incidental to the operation of such schools. Schools, Public or Private does not include Child Care Facilities or Child Care Institutions.

Seasonal Sales. The sale of merchandise related to a seasonal event or recognized state holiday. Examples include Christmas tree and pumpkin sales.

Semi-trailer. A non-motorized, portable container on wheels that is designed to be attached and pulled for the purpose of transporting primarily goods and materials customarily for commercial purposes over public roads. The size and weight of a semi-trailer enables it to only be pulled by a large truck or semi-tractor. Semi-trailers may be tankers, flatbeds or enclosed.

Senior Housing. Permanent residential unit(s) restricted by federal or state law, deed restriction, or similar requirement to occupancy by persons of a specific minimum age.

Setback. The minimum distance by which any building or structure is required to be separated from a property line or right-of-way.

Setback, Corner Side. A line extending from the front setback line to the rear setback line roughly parallel to the corner lot line, the depth of which is the horizontal distance set forth in the base zoning district regulations. The corner side setback extends from the front setback line, or the front property line of a lot or parcel where no front setback is required, to the rear setback line, or the rear property line of the site where no rear setback is required.

Setback, Front. A line within the lot or parcel parallel to a straight front property line. Where the front property line is not straight, the front setback line is a line within the lot or parcel separated from the front property line at all points by a distance equal to the front setback set forth in the base zoning district regulations.

Setback, Rear. A line opposite the front property line extending across the full width of a lot or parcel, the depth of which is the shortest horizontal distance between the rear property line or, if none exists, the assumed rear property line and a line parallel thereto.

Setback, Side. A line extending from the front setback line to the rear setback line, the depth of which is the horizontal distance set forth in the base zoning district regulations. The side setback extends from the front setback line, or the front property line of a lot or parcel where no front setback is required, to the rear setback line, or the rear property line of the site where no rear setback is required.

Setback Area. The area of a lot or parcel outside of the building envelope.

Setback Area, Corner Side. The area bounded by the corner side and rear lot lines and the front setback area. Where the *Corner Side Setback Area* and the *Rear Setback Area* are coterminous, the *Corner Side Setback Area* shall prevail.

Setback Area, Front. The area bounded by the front property line or lines, the side property lines, and the front setback line.

Setback Area, Rear. The area bounded by the rear property line or lines, the side property lines and the rear setback line, except for the *Corner Side Setback Area* as defined herein.

Setback Area, Side. The area bounded by a side property line, a side setback line, and the front and rear setback lines.

Sexually Oriented Business. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency or seminude model studio.

Shelter Care Facility. A residential care facility which provides temporary lodging, meals, counseling, and full-time supervision to individuals and groups such as pregnant teenagers, victims of domestic violence, neglected children, and runaways for periods of less than 30 consecutive days.

Shelter Care Facility, Homeless. A facility which provides temporary lodging, meals, and sanitary facilities for persons without permanent housing.

Sign. A communication device, attention getting device, structure, painted graphic or fixture that incorporates graphics, symbols, written copy, and/or lighting intended to promote the sale of a product, commodity, or service, to provide direction or identification for a business or a facility, or to convey a message or viewpoint. Signs do not include any flag, badge, or insignia of any governmental unit, mural, or any item of merchandise normally displayed in a business window.

Trademarked buildings forms, statuary and architectural features such as decorative canopies or awnings shall not be considered signage. Corporate color banding is considered signage.

Sign Related Terms

Abandoned. A sign located on a lot or parcel which no longer identifies or advertises a business, lessor, service, owner, product, or activity on the premises where the sign is displayed.

Animation

1. The movement of any illumination or the flashing or varying of light intensity of any light used in conjunction with a sign, such as blinking, traveling, flashing or changing degree of intensity of any light movement other than burning continuously; or

2. The movement or the optical illusion of movement of any part of the sign structure, design or pictorial segment, the automatic changing of all or any part of the facing of a sign; or

3. The movement of a sign set in motion by the atmosphere. Banners and flags are not considered animated signs.

Architectural Detail, Feature, or Element. Prominent or significant parts or elements of a building or structure including but not limited to; cornices, belt courses, lintels, sills, pediments, columns or pilasters, rustications, or base courses.

Balloon. Any lighter than air, cold air, or gas filled inflatable object attached by a tether to a fixed place or mounted on the ground or a building.

Comprehensive Sign Program. A set of sign design standards established for a multi-tenant building, residential or non-residential complexes with multiple buildings, or large-scale mixed-use developments.

Height, Sign. The vertical distance measured from the adjacent average grade, or upper surface of the nearest sidewalk, whichever is greater, to the highest point of the sign structure.

Indirect Illumination. An external source of illumination that is not part of or attached to a sign.

Individual Letters. A cutout or etched letter or logo, which is individually placed on a wall or freestanding sign.

Internal Illumination. A light source entirely within a sign where the source of the illumination is not directly visible.

Internal Indirect Lighting (Halo Lighting). A source of illumination, not directly visible, lighting only the background upon which the individual letter is mounted.

Logo. A graphic symbol representing an activity, use, or business. Logos are registered trademarks or symbols commonly used by a business and may include lettering in addition to graphic designs.

Pan-Channel Letter. An individual three-dimensional letter constructed by means of a three-sided metal channel.

Raceway, Exposed. A structure used for wall-mounted signage with individual letters or characters, located upon the exterior wall surface between the wall and the letters or sign characters. Raceways can contain wiring, conduit, transformers, and other electrical components.

Sign Area. The area of the smallest rectangle, or combination of rectangles, which comprises the sign face or encompasses the sign copy. The area of a sign is the entire face of the sign and includes any art work and insignia within a single continuous perimeter, including any spacing between letters, figures, designs, and structure of the sign other than the sign base, together with any frame or other material, color, or condition which forms an integral part of the display and is used to differentiate such sign from the wall or background against which it is placed. For a freestanding sign, sign area does not include perimeter architectural embellishments**,** base structure**,** and details such as decorative columns and caps when they are not a component of the Sign Face or Sign's message. When the sign only consists of letters, designs, or figures engraved, painted, projected, or fixed on a building or perimeter wall, the total area of

the sign shall be the area of the smallest rectangle, or combination of rectangles, within which the entire fixed lettering and/or artwork is inscribed. All sides of a sign visible from any 1 location shall be measured in determining the area of the sign, except that only 1 side of a sign shall be measured if the 2 sides are back-to-back or separated by an interior angle of 45 degrees or less. If the two 2 sides are not of equal size, the larger side shall be measured. A back-to-back sign has parallel faces separated by not more than 2 feet.

Sign Area, Pennant. The sum of the area of the rectangles surrounding each piece of material strung on a pennant.

Sign Area, Total. The aggregate area of all signs for any individual use or property.

Sign Face. The surface upon, against or through which the sign copy and/or graphic is displayed or illustrated, not including: structural supports; monument base; architectural features of a building or monument sign structure; nonstructural or decorative trim, when they do not have a message or design element that is a component of the sign message. When a sign only consists of letters, designs, or figures engraved, painted, projected, or fixed on a building or perimeter wall or other structure, and does not include a background contrasting with the material or color of the building or perimeter wall or other structure, the sign face shall consist of the entire fixed lettering and/or artwork, together with the spacing between the letters, figures or designs.

Sign Plan. A drawing required to be submitted with an application for a sign permit. The plan may show 1 or more signs.

Sign Structure. The supports, uprights, braces and framework of a sign.

Sign Types

Address Sign. A sign that specifies the assigned alpha numerical address for a structure or unit.

Advertising Flag. A Flag located at a business or institution and not intended for indefinite display.

A-Frame Sign. A portable, stand alone sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form a base upon which the sign stands.

Awning or Canopy Sign. A sign painted, installed, attached or otherwise applied to or located directly on an awning or canopy.

Banner. A temporary sign of fabric, plastic, paper or other light pliable material not enclosed in a rigid frame. Feather signs are a type of banner sign.

Billboard. A sign or structure, other than a temporary sign, portraying information or directing attention to a business, activity, commodity service, entertainment, or communication which is not conducted, sold or offered at the parcel on which the sign

or structure is located or which does not pertain to the parcel upon which the sign or structure is located.

Builder/Real Estate Sign. A sign that provides information about the builder, name of the development, and marketing information for the project on which the sign is located.

Building Identification Sign. A sign identifying the name of the multi-tenant building to which the sign is attached.

Cabinet (Can) Sign. A three-dimensional enclosed structure which includes all text, logos, and symbols with a single or double sign face(s).

Changeable Message Sign. A sign designed to permit change of copy manually, mechanically or electronically, including such signs where the change of copy is by remote or automatic means.

Community Sign. A sign on property owned or leased by a public agency or jurisdiction on property occupied by the agency or jurisdiction that is used to convey messages from the public agency or jurisdictional body.

Directional Sign. A sign directing traffic to an activity or use.

Directory Sign. A sign showing the locations of tenants in a multi-tenant commercial, office, or employment complex, or tenants in a multi-family residential project.

Drive-Through Restaurant Sign. A sign located at a drive-through restaurant's drive through window lane, with or without ordering capability.

Flag. A fabric sheet of square, rectangular, triangular or curvilinear shape that is mounted on a pole, cable or rope at 1 end.

Freestanding Sign. A permanent ground-mounted sign not affixed to a building, wall or fence.

Fueling Facility Sign. A sign or portion of a sign located at a fueling facility or gas station.

Grand Opening Sign. A temporary sign located at a new business, or a business being reopened after a building addition or renovation, in conjunction with a Grand Opening event.

Identification Sign. A permanent sign identifying name, type of business, and/or hours of operation, attached to or painted on a window, door, or a building area next to the main entrance.

Informational Sign. A sign containing only an informational message, copy, announcement, or instruction in furtherance of public safety, health, and/or welfare. Such signs include but are not limited to identifying restrooms, public telephones, walkways and delivery entrances.

Limited Duration Sign. A non-permanent sign that is displayed on private property for more than 30 days, but not intended to be displayed for an indefinite period.

Marquee Sign. A sign painted, installed, attached or otherwise applied to or located directly on a Marquee.

Menu Sign. A sign located at the entrance of a restaurant, not located in a drive-through restaurant window lane.

Moving Sign. A sign having any portion that is not stationary, or is designed to move intermittently or continuously by any means.

Off-Site Signage. Any sign which advertises a use, product, service, or activity occurring on a lot or parcel other than where the sign is located.

On-Site Signage. Any sign which advertises a use, product, service, or activity occurring on a lot or parcel where the sign is located.

Painted Wall Sign. A sign painted directly onto the exterior wall of a building.

Pennant. Any pieces of lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, displayed in series and capable of movement in the wind.

Permanent Sign. A sign (other than a Temporary Sign or Limited Duration Sign as defined herein) constructed of durable materials, attached to the ground or a building in a manner provided by the building code.

Pole Sign. A permanent freestanding sign supported by a single column, upright, pole, or post.

Portable Sign. A temporary sign that is not permanently affixed to a building, structure, or the ground, including such commercial signs carried by people or otherwise set in motion and visible from the right-of-way.

Projecting Roof Sign. A sign mounted to and projecting from the wall of a building or structure whose depth is greater than its width; and exceeding the height of a roofline or parapet of the building or structure to which it is attached. *Projecting Roof Sign* does not include a *Marquee Sign*.

Projecting Sign. A sign and its mounting bracket attached to and projecting from a building face or wall by more than fifteen inches (15"). Projecting signs include signs that are totally or partially in the right of way or are totally on public property.

Pump-Topper Sign or Spanner. A sign affixed to the top or side of an operable fuel dispensing pump.

Residential Entry Identification Sign. A sign placed at the entrance to a residential development identifying the development in furtherance of public safety.

Roof Sign. A sign erected on a roof, or projecting above the highest point of the roof line, parapet, or fascia of a building.

Suspended Sign. A sign suspended from a roof overhang of a covered porch or walkway, which identifies the tenant of the adjoining space.

Temporary Sign. A non-permanent sign that is located on private property intended for display for no more than 30 consecutive days at one time.

Vehicle Sign. A sign mounted, painted or otherwise placed on a trailer or motor vehicle parked, placed, or driven so that the sign thereon is visible from a public street or right-of-way primarily for the purpose of displaying such signage.

V-Shaped Sign. Signs erected upon common or separate structures which present a v-shape appearance and having an exterior angle between faces of not more than 45 degrees with distance between faces of such signs at their closest point not exceeding 2 feet.

Wall Sign. A sign permanently fastened to or painted on the wall or parapet of a building or structure in such a manner that the wall or vertical surface of the structure is the supporting structure.

Wall Sign, Non-Frontage. A Wall Sign, as defined herein, for a business or tenant that is not adjacent to its lease space due to not having adjacency to an exterior wall facing a street.

Window Sign. A sign applied or attached to a window, or displayed within 6 feet of the interior of a window area so as to attract attention of persons outside the building. Window signs do not include merchandise in a window display.

Site. One or more contiguous lots or parcels under single ownership or unified control**.**

Site Plan. A plan prepared to scale showing the boundaries of a site and the proposed location of all buildings and structures, circulation, landscaping, improvements and open space areas.

Small Wind Energy System. A wind energy conversion system consisting of a wind turbine, mounting apparatus, and associated control or conversion electronics which has a rated capacity of not more than 10 kW and which is intended to primarily reduce on-site consumption of utility power.

Smoking Lounge: A retail establishment that derives more than 80% of its gross revenue from the sale of loose tobacco, plants, herbs, liquids or chemicals to be vaporized for inhalation, and cigars, cigarettes, pipes, vaporizing devices for inhalation by mouth or nose, and other smoking devices for burning tobacco or vaporizing liquids or chemicals and related smoking accessories and in which the sale of other products is merely incidental. A Smoking Lounge is located in a freestanding building and permits the consumption of tobacco products by customers on premises, consistent with the Smoke Free Illinois Act.

Sport Court (Game Court). A fenced or unfenced hard surface open area used for one or more recreational activities, including, but not limited to badminton, basketball, tennis, volleyball and other games. A Sport Court includes temporary or seasonal installation including but not limited to ice rinks.

Stable, Commercial. Facilities for boarding or renting horses, mules, or ponies. Equestrian lessons may be provided. A Feed Lot is not a commercial stable.

Stable, Non-Commercial. A detached accessory structure for the keeping of horses, mules, and ponies owned by the occupants of the premises and not offered for compensation.

Stacking Space. The area occupied by a vehicle while waiting to be served at the initial order point, fuel pump island, or service bay. A stacking space does not include the space of the vehicle at the initial order point, pump island or interior service bay.

Storage, Business Property. The outdoor storage of materials, goods, vehicles or equipment used in conjunction with a business.

Storage, Outdoor. Storage of materials, goods, vehicles, or equipment outside of a building that is not associated with an active building permit or an allowed temporary use.

Storage, Personal Property. A facility offering storage of personal property and office records to the general public.

> *Indoor*. A personal property storage facility where all storage occurs in one or more fully enclosed buildings. A facility may include one on-site dwelling unit for a facility manager.
>
> *Outdoor*. A personal property storage facility where all or part of the storage occurs outdoors, including but not limited to long and short term parking of recreational vehicles. A facility may include one on-site dwelling unit for a facility manager.

Stormwater Management Facility. Any apparatus or facility that controls or manages the path, storage, or release of stormwater runoff. Such facilities may include retention or detention basins, drainage channels or swales, inlet or outlet structures, or similar facilities.

Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Street. A public or private thoroughfare for vehicular use providing access to public or private property and other streets, including dedicated roadway easements. A public street includes the associated right-of-way. A private street includes any associated roadway or access easement.

Street Types

Alley. A public or private way providing vehicular access to the rear or side of abutting properties whose principal frontage is on a street.

Arterial, Major. A street designated in the Comprehensive Plan to carry the highest volumes of traffic across the City and providing access to major commercial and employment areas.

Arterial, Minor. A street designated in the Comprehensive Plan to carry traffic across a portion of the City from residential neighborhoods to commercial and employment areas.

Collector Street. A street that serves as a connection between local and arterial streets. Collector streets carry moderate amounts of traffic.

Cul-De-Sac. A street connecting to another street at one end and terminating in a vehicular turnaround.

Local Street. A minor street generally providing direct access to properties.

Structure. Anything constructed or erected and located on the ground, or attached to something located on the ground.

Subdivision Related Terms

Improvements. Streets, sidewalks, curbs, gutters, driveways, drainage and storm water retention facilities, parks, recreational amenities, trails, street lighting, medians, signage, water mains, sanitary sewers and facilities, public utilities, landscaping and fences installed by a subdivider, and any other improvements required by the Zoning Regulations and Subdivision Regulations.

Minor Land Division. (See ILCS 765 205/1.b)

1. The division of improved or unimproved land whose area is 2.5 acres or less into 2 or 3 lots or parcels for the purpose of sale or lease, where no new street is involved.
2. The division of improved or unimproved land for the purpose of financing, sale, or lease, whether immediate or future, into 2 parts, where the boundaries of such property have been fixed by a recorded plat.

Minor Subdivision, Non-Residential. The division of improved or unimproved land of any size for the purpose of sale or lease, into 10 or fewer lots or parcels, whether or not a new street is involved.

Minor Subdivision, Residential. The division of improved or unimproved land whose area is 2.5 acres or less, for the purpose of sale or lease, into 2 or 3 lots or parcels, where a new street is involved.

Subdivider. A person, firm, corporation, partnership, association, syndicate, trust or other legal entity that files application and initiates proceedings for the subdivision of land. An individual serving as agent for such legal entity is not a subdivider.

Subdivision. The division of improved or unimproved land or lands for the purpose of financing, sale or lease, whether immediate or future, into 4 or more lots, tracts or parcels of land, or, if a new street is involved, any such property which is divided into 2 or more lots, tracts or parcels of land, or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into more than 2 parts. Subdivision also includes any condominium, cooperative, community apartment, townhouse or similar project containing 4 or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the buildings or airspace above the property shown on the plat are to be divided.

Support Structure, WCF. The structure to which Wireless Communications Facility antennas and other hardware are mounted.

Swap Meet, Flea Market and Auction, Indoor. Commercial activities held in an enclosed structure where: 1) groups of licensed vendors rent space to display, barter, or sell goods to the public; or 2) one or more sellers bring goods for auctioning to the public. The following uses are not swap meet and auction uses: Farmer's Market, occasional craft fairs and benefit sales held on public property or conducted by a non-profit organization.

Swap Meet, Flea Market and Auction, Outdoor. Commercial activities held in an open area where: 1) groups of licensed vendors (sellers) rent space to display, barter, or sell goods to the public; or 2) one or more licensed sellers bring goods for auctioning to the public. The following uses are not swap meet and auction uses: Farmer's Market, occasional craft fairs and benefit sales held on public property or conducted by a non-profit organization.

Swimming Pool. A public or private, portable or permanent structure intended for swimming or full or partial immersion, but not including ornamental pools or fishponds.

Swimming Pool, Public. A pool owned or operated by a governmental agency; a privately owned pool open to the general public for a fee or by membership; or a pool operated in conjunction with Hotels and Commercial Lodging.

Tattoo Parlor / Piercing Studio. An establishment offering: permanent marking of the skin using ink or other substances by means of needles or other instruments, including microblading or; the creation of an opening in the body for the purpose of inserting jewelry or other decoration.

Teen Nightclub. A facility with music and dancing primarily for youth unaccompanied by adults, and which charges an admission fee or cover charge.

Temporary Use. A use established for a limited period of time.

Time and Temperature Display. A device that provides a display indicating the current time and or temperature.

Tower, Antenna. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The

term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Tower, Wind Energy. The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground or roof.

Trail, Equestrian. A linear path designated for equestrian use.

Trail, Multi-Use. A linear path designated for use by pedestrians and bicycles.

Trellis: An architectural structure, usually made from an open framework or lattice of interwoven or intersecting pieces of wood, bamboo or metal that may or may not support vegetation.

Trailer. Every vehicle without motive power in operation, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Trailer Coach. Any vehicle or similar portable structure used or so constructed as to permit its being used as a conveyance upon the public streets or highways and designed to permit the occupancy thereof as a dwelling place, or any vehicle or similar portable structure designed to be transported after fabrication, on a flatbed or on another trailer, or on detachable wheels to a site where it is to be used as a dwelling ready for occupancy, except for minor or incidental unpacking and assembly operations.

Trailer Coach Park. See Mobile Home Park.

Truck and Semi-trailer Storage Lot. A property where trailers, semitrailers, box trucks, and/or truck tractors are stored, repaired, serviced, loaded, unloaded or otherwise parked. This definition excludes Warehousing and Manufacturing and Assembly Uses as defined in the Zoning Code.

Truck Tractor. A motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn, or a power unit that carries as property motor vehicles when operating in combination with a semi-trailer in transporting motor vehicles or any other commodity, including cargo or general freight, on a backhaul.

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

Use, Principal. See Principal Use.

Use, Accessory. See Accessory Use.

Use, Incidental. See Accessory Use.

Utilities

Customer Service Center. An establishment associated with a franchised public utility that provides customer account services and other customer support functions. Activities may include initiating or stopping services, payment of bills, pick-up/return of rented or sold equipment or technical assistance. Retail sales may also occur at the location.

Facilities. Buildings, structures or land used by a utility, railroad, or governmental agency for water or wastewater treatment plants, lift and pumping stations, electric substations, telecommunication exchanges, resource recovery facilities or similar uses. This use does not include Utility Service Yards, Wireless Communication Facilities, Over-The-Air Reception Devices, Large Satellite Dishes, well sites, or Amateur Radio Facilities.

Service Yard. Buildings, structures, or land used by a utility, railroad, or governmental agency for the purpose of storing and maintaining vehicles, equipment and materials.

Well Site. Groundwater extraction well locations, including pumps and associated equipment, not located within a building.

Vacation. The termination of, or termination of interest in, an easement, right-of-way, or public dedication of land.

Variance. City Council granted relief from the strict application of the requirements of the Zoning Code as specified in Chapter 5.5.

Vehicle and Equipment Sales, Leasing and Services

Car Wash. A facility providing self-service, automated or full-service car washing. Vehicle detailing and waxing may be offered.

Commercial Vehicle/Equipment Sales and Rental; New and Used. Sales or rental of trucks, trailers, tractors, construction or agricultural equipment, buses and similar equipment, including incidental maintenance.

Fueling Facility. A facility for the retail sale of vehicle fuel. Incidental uses may include *convenience retail sales* less than 1000 square feet, an Automated or Self-Service Car Wash, Light Vehicle Services and Alternative Fueling Facilities.

Fueling Facility, Alternative. Commercial sale of propane, natural gas, hydrogen, electric with service for more than four vehicles, or other alternative fuels to be used in vehicles.

Fueling Facility, Fleet. Fuel dispensing limited to fleet vehicles such as delivery trucks, school buses, and municipal vehicles where no retail sales are conducted.

Motor Vehicle Sales and Leasing, New and Used. Sale or leasing of automobiles, motorcycles, light trucks, motor homes, recreational vehicles, boats, and similar equipment, including incidental maintenance.

Motor Vehicle Sales and Leasing, New and Used – Internet Based: A Vehicle Sales and Leasing, New and Used business that primarily advertises, attracts customers and conducts business activities through the Internet. All activities related to this business, including the display of merchandise is conducted within an enclosed building.

Non-Commercial Vehicle Rental. Rental of automobiles, light trucks, motorcycles, watercraft, and similar equipment, specifically excluding sales and maintenance. This classification does not include the rental of motor homes and recreational vehicles.

Tent Sale, Vehicle. The temporary outdoor sale of vehicles at other than a normal business location, by one or more licensed dealers.

Towing Service Establishment. An establishment that provides for the removal of and temporary storage of a motor vehicle. A Towing Service Establishment may temporarily store such vehicles, but does not include the disposal, disassembly, salvage, or permanent storage of inoperable vehicles or a Salvage Yard or Junkyard use.

Vehicle Services, Heavy. Major repair of automobiles, trucks, motor homes, recreational vehicles, or boats. This classification includes full or partial drive train removal, repair and replacement, body and paint shops, radiator shops, vehicle emissions testing, transmission shops and similar uses. Towing Service for vehicles to be repaired on the premises or to a vehicle in need of services may be provided as an accessory use. This classification excludes vehicle dismantling or Salvage.

Vehicle and Equipment Services, Light. Minor vehicle and equipment services limited to repair, replacement and installation of components, including batteries, tires, brakes, tune-ups, air conditioning, automobile glass replacement and tinting, upholstery, audio and video equipment, mufflers, fluid change and lubrication services. Equipment services include service and repair of garden equipment. Towing Service for vehicles to be repaired on the premises or to a vehicle in need of services may be provided as an accessory use. Light vehicle services exclude any operation specified under Vehicle Services, Heavy.

Vehicle Related Terms

Abandoned Vehicle. An unregistered motor or recreational vehicle left unattended for a period of 72 hours on a street or private property. Vehicles stored within a fully enclosed building, at a towing or impound facility, or at a business engaged in *Vehicle Services* or *Motor Vehicle Sales and Leasing* are not considered abandoned.

Commercial Vehicle. Any vehicle with a gross vehicle weight rating over 10,000 pounds.

Inoperable Vehicle A vehicle which cannot be driven upon the public streets for reason including but not limited to not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Motor Vehicle. Any self-propelled device, excluding aircraft, by which any person or property may be transported, including but not limited to licensed or unlicensed vehicles, automobiles, trucks, motor boats, personal water craft, mini-bikes, go-carts, go-peds, motorized skateboards, and motorcycles.

Recreational Vehicle. A self-propelled or towed vehicle or camper shell designed for travel or recreational use, including motor homes, boats, personal watercraft, trailers, all-terrain vehicles, snowmobiles, motorcycles, dune buggies, and similar vehicles.

Utility Trailer. An enclosed or non-enclosed vehicle without its own motive power that is designed and constructed to transport another vehicle, or to transport tools or equipment, such as lawnmowers. A Utility Trailer is not a Recreational Vehicle except when it is containing or holding one or more Recreational Vehicles or recreational equipment.

Video Gaming Establishment. A principal use, or use that is accessory/incidental to the principal use on a property that is a *Licensed Video Gaming Location* as defined in Batavia City Code Title 3, Chapter 26 as follows: "A liquor establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment, all as defined in section 5 of the Act and this section."

Wall. (See Fence)

Warehousing. Commercial storage and distribution facilities.

Distribution Warehouse. A building intended for the purpose of the receipt, transfer, short term storage, and distribution of goods transported by truck. A Distribution Warehouse may include the storage of trucks and trailers associated and used with the distribution warehouse. A Distribution Warehouse is not a Truck and Semi-trailer Storage Lot use.

Information. A facility that provides space or equipment for storage, management or distribution of information.

Petroleum and Gas Storage. Tank farms and outdoor facilities for the storage of petroleum products and natural gas.

Waste Management. Facilities for the collection, receipt, storage, transfer, and disposal of waste, excluding sewage.

Hazardous Waste Collection and Transfer Facility. Facilities where hazardous or medical waste material is collected, received, temporarily stored, or processed for transportation to another location for recycling, re-use, incineration or final disposal.

Hazardous Waste Disposal Facility. Facilities where hazardous or medical waste material is incinerated or otherwise put to other final disposition.

Non-Hazardous Waste Collection and Transfer Facility. Facilities where non-hazardous waste material is collected, received, temporarily stored or processed for transportation to another location for incineration or final disposal.

Non-Hazardous Waste Disposal Facility. Facilities where hazardous or medical waste material is incinerated or otherwise put to other final disposition.

Non-Hazardous Material Recycling Facility. An establishment where recyclables are collected, received, temporarily stored or processed in a building, for transportation to another location for recycling.

Recycling Collection Bin. A container located outside of a building that is used to store items intended for reuse. Recycling Collection Bins are not containers used to temporarily store items intended for recycling that typically are emptied by contracted waste haulers.

Waste Related

Hazardous Waste. Any chemical, compound, mixture, substance, product or other material which is classified as hazardous waste pursuant to Illinois law.

Medical Waste. Any solid waste that is generated in the diagnosis, treatment, or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biological, but not including hazardous waste as defined in Illinois law.

Large Refuse Receptacle. A container used to store garbage and rubbish for disposal or recycling. This definition is intended to include containers over 96 gallons (commonly referred to as "dumpsters") and to exclude containers suitable for City-contracted refuse disposal.

Wholesale Sales. The sales of goods, product, or material to other wholesale or retail businesses.

Wireless Communication Facilities. Antennas, support structures, storage structures and related equipment for the transmission or reception of personal wireless services, radio or microwave signals as authorized by the Federal Communication Commission. Personal wireless services include commercial mobile services, common carrier wireless exchange access services, and unlicensed wireless services, but not direct-to-home satellite services.

Yard. The space between a horizonal plane of the principal structure and the property line that is generally parallel to that plane.

Corner Side Yard. A *Yard* between the principal structure and the Corner Side Lot Line that is also between the front plane of a Principal Structure and the rear lot line. A *Corner Side Yard* supersedes a *Rear Yard*.

Front Yard. A *Yard* between the Principal Structure and the front lot line. *A Front Yard* supersedes a *Corner Side Yard* and an *Interior Side Yard*.

Interior Side Yard. *A Yard* between the Principal Structure and the interior side property line. An *Interior Side Yard* is superseded by the *Front Yard* and *Rear Yard.*

Rear Yard. A *Yard* between the Principal Structure and the Rear Lot Line. A *Rear Yard* is superseded by a *Corner Side Yard*.