



Planning Commission Staff Report
Meeting Date: January 20, 2016

**FILE NUMBER/
PROJECT NAME:** SUB-15-008

LOCATION: 7775 South Pheasant Wood Drive

REQUEST: Subdivision Amendment

APPLICANT: Charles Koehn

ENGINEER: McNeil Engineering

RECOMMENATION: APPROVE subject to attached conditions of approval

APPLICANT'S PROPOSAL

The applicant is requesting approval of a two lot subdivision to split an existing lot located at 7775 South Pheasant Wood Drive, otherwise known as Lot 15 of the Pheasant Wood Estates subdivision. This request also constitutes an amendment to the Pheasant Wood Estates subdivision.

BACKGROUND

Zoning Ordinance

The current zoning designation of the subject property RR-1-43 (Rural Residential Zone), as governed by chapter 19.17 in the Cottonwood Heights zoning ordinance. The minimum lot size required in the RR-1-43 zone is 43,560 square feet (one acre). The minimum lot width in the RR-1-43 zone is 100 feet.

Analysis: Both lots in the proposed lot split conform to minimum ordinance requirements. Lot 1 is 43,560 square feet and is 165 feet in width. Lot 2 is 87,120 square feet and is 270.60 feet in width.

Subdivision Ordinance

Title 12 of the Cottonwood Heights Municipal Code dictates the Planning Commission's role in subdivision plat approval. In particular, Planning Commission approval is necessary for amendments to existing subdivisions. Chapter 12.26.010 defines the approval process:

The planning commission may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

Analysis: Because the proposed lot split will affect an existing subdivision, a public hearing before the planning commission is required.

Noticing

In accordance with Cottonwood Heights subdivision ordinance chapter 12.26.010(A), notice is required to be sent to property owners within 400 feet of the property that is the subject of the proposed plat change.

Analysis: Hearing notices were sent out to property owners within 400' of the subject property, as required by ordinance.

CONTEXT

Adjacent Land Use

The property is adjacent to single-family residential in the RR-1-43 zoning district in all directions.

Roads

The property is located along an existing private road. No changes to the road are proposed.

Infrastructure

Given that the property is served by a private road, no right-of-way improvements will be required by the city.

Fire Safety

All development proposals will be required to be reviewed and approved by the Unified Fire Authority.

Attachments

1. Conditions of Approval
2. Sample Motions
3. Existing Subdivision Plat
4. Proposed Plat Amendment

CONDITIONS OF APPROVAL

1. The applicant shall work with staff to address all technical corrections on the preliminary plat, in compliance with all applicable city ordinance regulations;
2. The applicant shall obtain all necessary permits prior to demolishing or constructing any new buildings on the proposed lots.

Findings for approval:

- The proposed subdivision meets the applicable provisions of the Cottonwood Heights subdivision ordinance and the Cottonwood Heights zoning ordinance;
- Proper notice was given in accordance with local and state requirements;
- A public hearing was held in accordance with local and state requirements.

SAMPLE MOTIONS

Approval

I move that we approve project SUB-15-008, an application by Charles Koehn, for approval of a subdivision plat amendment of Lot 15 of the Pheasant Wood Estates subdivision affecting the property located at 7775 South Pheasant Wood Drive, including all conditions and findings found in the staff report dated January 20, 2016.

- List any additional conditions...
- List findings for additional conditions...

Denial

I move that we deny project SUB-15-008, an application by Charles Koehn, for approval of a subdivision plat amendment of Lot 15 of the Pheasant Wood Estates subdivision affecting the property located at 7775 South Pheasant Wood Drive, based on the following findings:

- List findings for denial...



MEMORANDUM

To: Cottonwood Heights Planning Commission
From: Mike Johnson, Planner (801) 944-7060
Date: November 3, 2015
Subject: Proposed Text Amendment to Chapter 19.82, Signs

REQUEST

Staff is proposing a text amendment to chapter 19.82 (Signs) of the city's zoning ordinance. Minor changes are being proposed to modify certain portions that may be construed as regulating based on sign content. Further, some graphical representations have been updated.

BACKGROUND

A recent Supreme Court ruling (Reed v. Gilbert) stated that any signage regulation based on the content of the sign, especially for non-commercial speech, is illegal and unconstitutional. After this ruling, the city completed a review of its current sign ordinance and found a few sections of the ordinance that could be perceived to regulate signage based on sign content. This proposed text amendment remedies such regulations to ensure content neutrality when reviewing and regulating signage. Additionally, some of the graphics included in the existing sign code are irrelevant and unnecessary. As such, they have been removed or modified.

FINDINGS

Primary Issues

1. Content-based regulation – The current sign ordinance included certain signage types and definitions that could be interpreted to be using content to regulate signage requirements. An example would be regulating political signs more strictly than other temporary signs. It is impossible to differentiate a political sign from another non-commercial temporary sign without referencing the content of such sign.
2. Irrelevant Graphics – The current sign code contains multiple unnecessary graphics that may be interpreted to mean they are pointing out something of significant importance. A few of the existing graphics' inclusion in the code appear arbitrary and unnecessary, and are proposed to be removed. The graphic for wall signage was revised to more clearly demonstrate a method of area measurement.
3. Grammatical Errors – There are a few instances where grammatical errors were incorporated into the code. These should be removed for better clarity.

Primary Benefits

1. The benefit of this text amendment will be to comply with the Supreme Court's ruling, and ensure that potential litigation due to content regulation is avoided. Very little of the actual time, place, and manner requirements were changed. Any signage requirements

that were changed or added were changed solely as a result of the recent Supreme Court ruling.

2. The removal and revision of graphics and grammatical errors in the code will result in easier understanding of all signage requirements.

RECOMMENDATION

Staff recommends that the planning commission review the proposed sign code revision and forward a recommendation to the City Council.

MODEL MOTIONS

Sample Motion for Approval – “I move that we forward a positive recommendation to the City Council for project ZTA-15-002, a city initiated request to amend chapter 19.82 (Signs) of the Cottonwood Heights zoning ordinance, based on the findings found in the Staff Memo dated October 29, 2015:”

- List any proposed additions or changes....
- List any additional findings.....

Sample Motion for Denial – “I move that we forward a negative recommendation to the City Council for project ZTA-15-002, a city initiated request to amend chapter 19.82 (Signs) of the Cottonwood Heights zoning ordinance, based on the findings found in the Staff Memo dated October 29, 2015:”

- List findings for negative recommendation....

Chapter 19.82 SIGNS

Sections

- 19.82.010 Purpose.**
- 19.82.020 Definitions.**
- 19.82.025 Interpretation.**
- 19.82.030 Monument signs.**
- 19.82.040 Wall signs.**
- 19.82.050 Projecting signs.**
- 19.82.060 Awnings.**
- 19.82.070 Special signs.**
- 19.82.080 Illumination.**
- 19.82.090 Areas of Special Character.**
- 19.82.100 Programs for Signs.**
- 19.82.110 Prohibited signs.**
- 19.82.120 Exempt signs.**
- 19.82.121 Transit facility advertising.**
- 19.82.123 Off-premise electronic display sign overlay zone.**
- 19.82.125 Political signs.**
- 19.82.130 Nonconforming signs.**
- 19.82.140 Permits.**
- 19.82.150 Enforcement.**
- 19.82.160 Severability.**
- 19.82.170 Substitution.**
- 19.82.180 Charts, figures, and graphs.**

19.82.010 Purpose.

The purpose of this chapter is to create the framework for a comprehensive and balanced system of signs that will preserve the right of free speech and expression, provide easy and pleasant communication between people and their environment, and avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of this chapter to authorize the use of signs that are:

- A. Compatible with their surrounding architecture;
- B. Appropriate to the activity that displays them;
- C. Expressive of the identity of individual activities and the community as a whole; and
- D. Legible in the circumstances in which they are seen.

19.82.020 Definitions.

“*Above-roof sign*” means a sign displayed above the peak or parapet of a building.

“*Activity*” means an economic unit designated in the classification system given in the Standard Industrial Classification (SIC) Manual published by the U.S. Department of Commerce.

“*Animation*” or “*animated*”: (see also “changeable copy” and “movement”) means the movement or the optical illusion of movement of any part of the sign structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a sign.

“*Architectural detail*” (see also “signable area,” “wall and roof signs”) means any projection, relief, cornice, column, change of building material, window, or door opening on any building.

“*Architectural*,” “*historic*,” or “*scenic area*” means an area that contains unique architectural, historic, or scenic characteristics that require special regulations to ensure that signs displayed within the area enhance its visual character and are compatible with it.

“*Awning*” means a cloth, plastic, or other nonstructural covering that either is permanently attached to a building or

can be raised or retracted to a position against the building when not in use.

“*Banner*” means a sign composed of a logo or design on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere.

“*Bare-bulb illumination*” means a light source that consists of light bulbs with a [20]-watt maximum wattage for each bulb.

“*Billboard*” (see also “off premise sign”) means a sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

“*Building*” means a structure having a roof supported by columns or walls.

“*Cabinet Sign*” means a sign that contains all the text and/or logo symbols on the display face of an enclosed cabinet.

“*Canopy*”: (See “awning”).

“*Changeable copy*” means a copy that changes at intervals of more than once every 60 seconds.

“*Civic sign*” means a non-commercial temporary sign, ~~sponsored by a other than a commercial sign, posted to advertise a civic event sponsored by a public agency, school, church, civic fraternal organization, or similar non-commercial organization.~~

“*Convert,*” “*converted*” and “*conversion*” refers to any sign face that is changed from its existing, non-digital or non-electronic display to an electronic display sign. Any existing, non-digital or non-electronic sign that is remodeled, repaired, or maintained in such a way as to become an electronic display sign, in whole or in part, shall

be considered a conversion to an electronic display sign.

“*Directional sign*” means a sign placed at the exit or entrance of a premises that has two or more driveways.

“*Dwell time*” means the time that text, images and graphics on an OPEDS remains static before changing to a different text, images or graphics on a subsequent sign face.

“*Electronic display sign*” means any sign, video display, projected image or similar device, or portion thereof, that displays electronic images, graphics or pictures, with or without textual information that is generated (or may be changed or altered) by electronic means. Electronic display signs include, without limitation, electronic or digital displays that are computer programmable or micro-processor controlled and signs that use light emitting diodes (LED), plasma displays, fiber optics, light bulbs or other illumination devices or technology that results in bright, high-resolution text, images and graphics.

“*External illumination*” means illumination of a sign that is affected by an artificial source of light not contained within the sign itself.

“*Façade*” (see also “signable area”) means the side of a building below the eaves.

“*Facade, blank*” means the side of a building below the eaves that is blank and does not have windows or architectural detail.

“*Flashing illumination*” means illumination in which the artificial source of light is not maintained stationary or constant in intensity and color at all times when a sign is illuminated, including illuminated lighting.

“Going out of business sign” means a temporary sign displayed on a premises, or by an occupant of a shopping center or multiuse building, immediately prior to cessation of the business at that location.

“Grand opening sign” means a banner-temporary sign displayed on a premises, or by an occupant of a shopping center or multi-use building, following the sale, lease, or other conveyance of the premises, shopping center or multiuse building, or any interest therein. on which a grand opening is in progress.

“Ground sign” means a sign supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. It includes a pole sign and a monument sign.

“Height” means the vertical distance measured from grade at the edge of the adjacent right-of-way to the highest point of the sign.

“Illuminance” refers to the amount of light falling on an object or the measurement of such light.

“Illumination” or “illuminated” means a source of any artificial or reflected light, either directly from a source of light incorporated in, or indirectly from an artificial source, so shielded that no direct illumination from it is visible elsewhere than on and in the immediate vicinity of the sign.

“Indirect illumination” means a light source not seen directly.

“Inflatable sign” means any advertising device, which is supported by heated or forced air, or lighter-than-air gases.

“Internal illumination” means a light source that is concealed or contained within the sign and becomes

visible in darkness through a translucent surface.

“Item of information” means (1) a syllable of a word, an initial, logo, abbreviation, number, symbol, or geometric shape; (2) a word, logo, abbreviation, symbol, or geometric shape.

“Marquee” means a permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from the elements.

“Monument sign” means a ground sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole.

“Movement” (see also “animation”) means physical movement or revolution up or down, around, or sideways that changes at intervals of less than 60 seconds.

“Multi-use building” means a building consisting of two or more separate commercial uses.

“Name-plate sign” means a sign indicating the name and address of a building; or the name of an occupant thereof, and the practice of a permitted occupation therein no larger than one square foot placed on the front of a premises, multi-use building or shopping center.

“Neon tube illumination” means a source of light for externally lit signs supplied by a neon tube that is bent to form letters, symbols, or other shapes.

“Nonconforming sign” means a sign that was lawfully constructed or installed prior to the adoption or amendment of this chapter and was in compliance with all of the provisions of the governing ordinance then in effect, but which does not presently comply with this chapter.

“Non-commercial sign” means a sign that does not contain information or advertising for any business, service, commodity, product, entertainment or other attraction.

“Off premise sign” (see also “billboard”) means a sign that directs attention to ~~a~~commercial activities such as a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

“Off premise electronic display sign” or “OPEDS” means off-premise electronic display sign(s) (whether singular or plural, as the context requires).

“On premises sign” means a sign that directs attention to commercial messages exclusively related to the premises where such sign is located or to which it is affixed.

“OPEDS zone” means the off-premise electronic display sign overlay zone pursuant to section 19.82.123 of this chapter.

“Pole sign” means a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

~~“Political sign” means a temporary sign identifying and urging voter support for a particular election issue, political party, or candidate for public office.~~

“Portable sign” means a sign not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building.

“Premises” means the lot or lots, plots, portions, or parcels of land considered as a unit for a single use or development, whether owned or leased, and not located in a shopping center or multi-use building.

“Projecting sign” means a sign attached to and projecting from the wall of a building and not in the same plane as the wall.

Projecting Sign



~~“Property sign” means an on-premise sign that states the rights that the owner of that property wishes to displayed to enforce, such as no dumping, or no trespassing, property rights related to the property on which the sign is displayed.~~

“Public information sign” means ~~an on-premises~~ sign that is located on land in a PF (public facilities) zone that is owned, leased or occupied by a federal, state or local governmental body (such as a city or a school district), which signage is used solely for non-commercial, ~~public information~~ purposes ~~such as civic announcements, publicizing community events, occurrences or activities, or the like.~~ A public information sign may not be used for off-premises sign or billboard purposes. All public information signs shall be constructed as monument signs as provided in section 12.82.030 below.

~~“Real estate sign” means a temporary sign that relates to the sale, lease, or rental of property or buildings, or to construction activities posted on~~

property that is under construction or actively marketed for sale on a site where the sign is located.

“*Right-of-way*” means a strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, alley, trail, water line, sanitary sewer, and/or other public utilities or facilities.

“*Roof sign*” (see also “above-roof sign”) means a sign that is displayed above the eaves and under the peak of a building.

“*Shopping center*” means a commercial development under unified control consisting of four or more separate commercial establishments sharing a common building, or which are in separate buildings that share a common entranceway or parking area.

“*Sign*” means a sign or special sign, as defined by this chapter. Sign also means a lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right-of-way.

“*Signable area for projecting signs and awnings*” means one area enclosed by a box or outline, or within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures.

“*Signable area for wall signs*” means one area free of architectural details on the facade of a building or part of a building, which shall include the entire area which is:

1. Enclosed by a box or outline, or
2. Within a single continuous perimeter composed of a single rectangle, circle, triangle, or

parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures. A “*facade*” is the side of a building below the eaves.

“*Size*” means the total area of the face used to display a sign, not including its supporting poles or structures. If a sign has two faces that are parallel (not more than two feet apart), and supported by the same poles or structures, the size of the sign is one-half the area of the two faces.

“*Snipe sign*” means an off-premises sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.

“*Special sign*” means a sign, other than a ground or wall sign, regulated by this title.

“*Structure*” means anything built that requires a permanent location. This term includes a building.

“*Temporary sign*” means a sign that is not permanently anchored or secured to a structure and does not have supports or braces firmly securing it into the ground.

“*Temporary window sign*” means a window sign displayed for a limited period of time.

“*Time and temperature sign*” means a sign devoted exclusively to the display of the current time and temperature.

“*Twirl time*” means the time that it takes for static text, images and graphics on an OPEDS to change to a different text, images or graphics on a subsequent sign face.

“*Vehicle sign*” means a sign that is attached to or painted on a vehicle that is parked on or adjacent to any commercial property, ~~the principal purpose of which is to attract attention~~

~~to a product sold or business located on the property.~~

“*Wall sign*” means a sign painted on or attached to a wall of a structure and in the same plane as the wall.

“*Wind sign*” means any display or series of displays, banners, flags, balloons, or other objects designed and fashioned in such a manner as to move when subjected to wind pressure.

“*Window sign*” means a sign applied, painted or affixed to or in the window of a building. A window sign may be temporary or permanent.

19.82.025 Interpretation.

A. Properties divided by public streets are not adjacent.

B. The sign requirements contained in this chapter are declared to be the maximum allowable.

C. Sign types not specifically allowed as set forth within this chapter shall be prohibited.

D. Where other ordinances are in conflict with the provisions of this chapter, the most restrictive ordinance shall apply.

19.82.030 Monument signs.

A. Where permitted. A premises may display one monument sign on each street or highway on which it has frontage in the following zoning districts:

1. NC zone
2. CR zone
3. O-R-D zone
4. PF zone

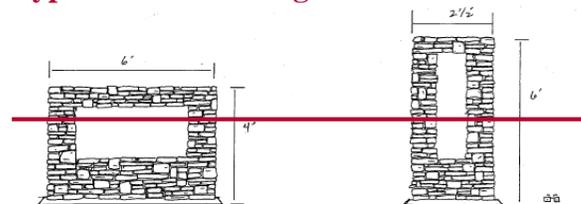
B. Size, setback, and height regulations. Monument signs must comply with the size, setback, and height regulations contained in Chart 19.82.03-01.

C. Shopping centers. A shopping center may display one monument sign

at each exit and entrance. Occupants within a shopping center may not display monument signs individually.

D. Public information signs. Notwithstanding anything in this chapter to the contrary, public information signs ~~are a conditional use in the PF zone and may be constructed to a maximum height of 18 feet. The base, or support structure, of the public information sign shall be designed to be no less than one-half (1/2) the width of the advertising portion of the sign. The maximum width of the advertising portion of any public information sign is 12 feet, and the maximum allowable area of the advertising portion of any public information sign is 90 square feet. The copy or image on any public information sign with changeable copy or moveable images (via LED lighting or other technology) shall not move more than once per minute. With the exception of lighted signs deemed necessary to protect public safety (such as Amber Alerts, speed limit LED signs, UDOT advisory traffic signs, etc.), the hours of illumination and operation of any public information sign shall be limited to 7:00 a.m. to 10:00 p.m. daily.~~ shall be constructed in accordance with monument sign standards, or as approved by the Planning Commission as part of a Program for Signs.

Typical monument signs:



E. Multi-use buildings. A multi-use building may have one monument

sign facing each street or highway on which the building has frontage.

F. Landscaping. A landscaped area located around the base of the monument sign equal to 2.5 square feet for each square foot of monument sign area, is required for all monument signs. The landscaped area shall contain living landscape material consisting of shrubs, perennial ground cover plants, or a combination of both, placed throughout the required landscape area having a spacing of not greater than two feet on center. Where appropriate, the planting of required deciduous or evergreen trees, installed in a manner that frames or accents the monument sign structure is encouraged.

Example of adequate landscaping to frame a sign:



19.82.040 Wall signs.

A. Where permitted. In the following zoning districts, a premises, and each occupant of a shopping center or multiuse building, may display wall or signs on walls adjacent to each street or highway on which it has frontage:

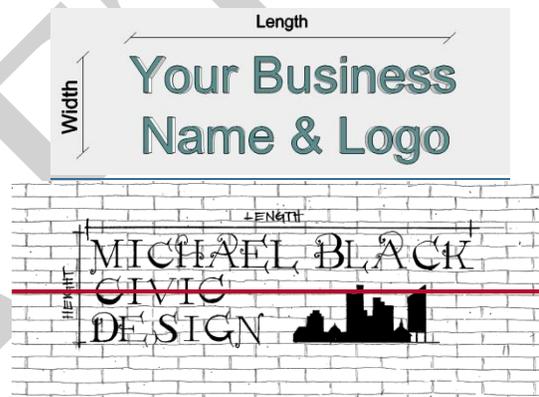
1. NC zone
2. CR zone
3. O-R-D zone
4. PF zone

B. Signable area designation. The person displaying the sign shall select one signable area on each facade of the building that has frontage on a street or

highway. As used in this subsection, a “signable area” is an area which is:

1. enclosed by a box or outline, or;
2. within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures

Signable area measured for a wall sign:



C. Sign structure or sign display area allowed. The aggregate area of the wall signs displayed on a premises shall not exceed the following percentages of the signable area:

1. No signable area for any use in city shall exceed 15% of the aggregate area of the wall where a sign is to be located, and in no case shall a wall sign exceed six feet in height.

D. How displayed. The sign structure or sign display area may be displayed as one or divided among two or more wall signs.

E. Additional limitations. Wall signs may be attached to or pinned away from the wall, but must not project from the wall by more than 12 inches and must not interrupt

architectural details. Cabinet signs are not permitted as wall signs in the city.

19.82.50 Projecting signs.

A. Where permitted. A premises, and each occupant of a shopping center or multi-use building, may display one projecting sign on each street or highway frontage in the following zoning districts:

1. NC zone
2. CR zone
3. O-R-D zone
4. PF zone

B. Size of projecting signs.

Projecting signs must comply with the size regulations contained in Chart 19.82.05-01. Projecting and marquee signs shall not project above the roofline or 18 feet, whichever is lower.

C. Signable area. Any signable area selected for display as a projecting sign shall not exceed, and shall be subtracted from, the signable area allocated to wall signs permitted for each premises.

D. Additional limitations. The following additional limitations apply to projecting signs:

1. Projecting signs must clear sidewalks by at least eight feet and may project no more than four feet from a building or one-third the width of the sidewalk, whichever is less.
2. Projecting signs must be pinned away from the wall at least four inches and must project from the wall at an angle of 90 degrees.
3. Angular projection from the corner of a building is prohibited.

19.82.060 Awnings.

A. Where permitted. A premises, and each occupant of a shopping center or multi-use building, may display awnings on each street or highway

frontage in the following zoning districts:

1. NC zone
2. CR zone
3. O-R-D zone
4. PF zone

B. Signable area. A sign may be displayed on one signable area selected for display on an awning. It shall not exceed 30% of the area of the principal face of the awning and shall be subtracted from the signable area selected for wall signs permitted for each premises and each occupancy under section 19.82.04.

C. Height and width. Awnings must clear sidewalks by at least eight feet and may project no more than the width of the sidewalk.

19.82.070 Special signs

A. Grand opening or going out of business signs. A premises, or an occupant of a shopping center or multi-use building, may display one grand opening or going out of business sign, not exceeding 20 square feet in area or six feet in height, for no more than 20 days during any 12 consecutive calendar months, and must be licensed to do so by the city.

B. Window signs. A premises, or an occupant of a shopping center or multiuse building, may display permanent window signs not to exceed 15% of the window area of the facade of the building; and temporary window signs, not to exceed an additional 15% of the window area of the facade of the building, for no more than 30 days during any 12 consecutive calendar months.

C. Directional signs. A premises, or an occupant of a multi-use building, may display one directional sign at each entrance to or exit not more than six

square feet on two-lane streets or highways and on any highway with a posted travel speed less than 35 miles per hour, and not more than four square feet on multi-lane roads and on any highway with a posted travel speed greater than 35 miles per hour.

19.82.080 Illumination and movement.

A. Flashing, illumination and movement prohibited. A sign may not be animated or have flashing illumination. Except for OPEDS under section 19.82.123, public information signs under subsection 19.82.030(D), and time and temperature signs, a sign may not have changeable copy.

B. Illumination requirements. A permanent sign may be non-illuminated, illuminated by internal, internal indirect or external indirect illumination. Signs that are externally lit shall be illuminated only with steady, stationary, down-directed, and shielded light sources directed solely onto the sign.

C. Glare. Any lighting fixture on a sign that is located within ten feet of a property line of a residential zoning district or an existing residential use, or within ten feet of a public right-of-way, except as permitted by this ordinance, shall be:

1. Aimed away from the property line, residential use, or zoning district, or public right-of-way;

2. Classified as full cut-off lighting, or;

3. Shielded on the side closest to the property line, residential use, zoning district, or public right-of-way.

19.82.090 Areas of Special Character.

A. Designation. This chapter cannot adequately regulate all signs in an area as diverse as the city. The city council may therefore designate any geographical areas as Areas of Special Character.

B. Zoning map. The city's zoning map shall show the boundaries of all designated Areas of Special Character.

C. Special regulations. The city council shall adopt special regulations for signs in Areas of Special Character that shall be consistent with the nature of the Area of Special Character.

D. Effect of special regulations. Special regulations for Areas of Special Character shall supersede and may be either more or less restrictive than the regulations for signs contained in title.

E. Sign plan for Areas of Special Character. The planning commission may approve a sign plan for an Area of Special Character. The sign plan shall contain visual representations of the lettering, illumination, color, area and height of signs and may also indicate the area and buildings where they may be placed and located. The sign plan may also contain special regulations authorizing the display of signs in the Area of Special Character. The special regulations may incorporate by reference the visual representation of signs in the sign plan. The planning commission may approve a sign plan if the signs illustrated in the plan and authorized by any special regulations included in the plan are consistent with the purposes of this title and the character of the Area of Special Character. An approved sign plan shall supersede and may be either more or less restrictive than the regulations contained in this title.

F. Programs for Signs. The planning commission may approve a

Program for Signs in an Area of Special Character.

19.82.100 Programs for Signs.

A. Purpose. A Program for Signs is a creative incentive for a unified visual statement that integrates the design of signs with the design of the building on which they will be displayed and with the surrounding area.

B. When allowed. The owners of one or more adjacent premises, or one or more occupants of a shopping center or multi-use building, not located in an Area of Special Character, may submit a Program for Signs to the planning commission that need not comply with some or all of the requirements of this ordinance. The Program for Signs shall contain a visual representation of the lettering, illumination, color, size, height, placement, and location of the signs proposed for display

C. Standards for approval. The planning commission may approve a Program for Signs if the signs visually represented in the program are:

1. Consistent with the purposes of this chapter; and
2. Compatible with the theme, visual quality, and overall character of the surrounding area or an Area of Special Character, if the signs included in the Program for Signs are located in such an area; and;
3. Appropriately related in size, shape, materials, lettering, color, illumination, and character to the function and architectural character of the building or premises on which they will be displayed, and are compatible with existing adjacent activities.

D. Display of signs. A premises or occupancy for which a Program for Signs has been approved by the

planning commission may only display signs that comply with the approved program, which shall supersede and replace the regulations for signs in this ordinance.

19.82.110 Prohibited signs.

The following signs are prohibited in the city:

- A. Signs which by color, location, or design resemble or conflict with traffic control signs or signals;
- B. Signs attached to light poles or standards;
- C. Portable signs;
- D. Above-roof signs;
- E. Inflatable signs;
- F. Any unlicensed temporary sign;
- G. Vehicle signs;
- H. Any sign (whether a monument sign, wall sign, projecting sign, or any other type of sign) which flashes, blinks, uses chaser lights or has animation, movement, changeable copy or other moveable images or lettering (via LED lighting or any other technology); provided, however, that the following signs may be permitted as conditional uses subject to compliance with the other requirements of this chapter:
 1. Time and temperature signs;
 2. Public information signs; and
 3. OPEDS converted from existing, nonconforming off-premises signs in the OPEDS zone, as provided in section 19.82.123, below.
- I. Roof signs;
- J. Snipe signs;
- K. Wind signs;
- L. Off premise signs, including, without limitation:
 1. Billboards; and

2. Electronic display signs, except as provided in section 19.82.123, below.

M. Pole signs;

N. Cabinet signs, except as allowed herein; and

O. Any sign in the right-of-way which has not been licensed by the city, including, without limitation, any so-called “bus bench” signs.

19.82.120 Exempt signs.

The following signs are exempt from the regulations contained in this chapter:

A. Signs required by law.

B. Any sign ~~of information~~ integrated into or on a coin-operated machine, vending machine, gasoline pump, or telephone booth.

C. Real estate signs, one per property. The real estate sign shall not exceed six feet in height and nine square feet and shall not include any lights, flashing or changeable copy.

D. Property signs.

E. Name plate signs.

F. Civic signs.

19.82.121 Transit facility advertising.

Advertising on public transit (bus) benches and shelters in the city is prohibited; provided, however, that nothing in this code shall prohibit the city from maintaining public, or public-interest, notices on any city-owned public transit facilities in the city.

19.82.123 Off-premise electronic display sign overlay zone.

A. *Establishment.* The OPEDS overlay zone is established to provide areas of the city in which existing, nonconforming off-premise signs

which are located in such zone as of 20 November 2012 may be converted into OPEDS as a conditional use.

1. Billboards and other off-premise signs may not be converted into electronic display signs in any location outside the OPEDS zone.

2. Except as otherwise provided in this section for the conversion of existing, nonconforming off-premises signs to off-premise electronic display signs in the OPEDS zone, all OPEDS are prohibited.

3. The location of the OPEDS zone is shown on Map 19.82.123.

B. *Purposes.* Purposes of this section include, without limitation:

1. Allowing for appropriate off-premise electronic signage which uses clear, attractive graphics to highlight goods and services;

2. Protecting the street views and vistas of pedestrians and motorists;

3. Protecting and shielding pedestrians and motorists from distractions of excessive motion, illumination and other safety hazards;

4. Protecting residents from glare and excessive illumination;

5. Providing clear standards for the design, installation and use of off-premise electronic display signs in the OPEDS zone; and

6. Otherwise promoting and protecting the public health, safety, welfare and convenience by regulating the off-premise electronic display signs enabled by this section.

C. *Conditional use permit required.* The owner of any off-premise sign shall be required to obtain a conditional use permit pursuant to chapter 19.84 of this title before converting that off-premise sign to an OPEDS.

D. *Standards.* Subject to any contrary provisions of applicable state or federal law, all OPEDS shall meet the following standards:

1. No OPEDS may be larger in width, height or display/signable area than the off-premise sign from which it was converted.

2. The text, images and graphics on an OPEDS shall be static and complete within themselves, without continuation in content to the next image or message or to any other sign. Serial messages that require multiple passes or multiple signs to comprehend the message are prohibited.

3. All text and images must be of a size and shape to not cause drivers to reduce speed or become unreasonably distracted in order to comprehend the message. The city's focus under this subsection D(3) shall be the method (in terms of letter size and other quantifiable physical attributes) used to convey a message on an OPEDS rather than the content of such message.

4. Each electronic display area capable of showing a separate electronic message shall be considered to be a separate OPEDS, including those sharing the same support structure.

5. OPEDS shall not include animation, full motion video, flashing, scrolling, strobing, racing, blinking, changes in color, fade in or fade out or any other imitation of movement or motion, or any other means not providing constant illumination.

6. The dwell time for each message on an OPEDS shall be at least eight seconds, such that each message shall be illuminated and static for at least eight seconds before transitioning to a new static display.

7. The transition from one static display to another must be effectively instantaneous, with a twirl time not exceeding .25 second.

8. Every OPEDS shall be equipped with a mechanism that automatically controls the sign's display period at all times as provided in this section.

9. OPEDS shall comply with the following illuminance requirements:

(a) No OPEDS shall cause illuminance in excess of three-tenths (0.3) foot candle above ambient light as measured perpendicular to the OPEDS's electronic sign face at a distance in feet calculated by taking the square root of the product of the following:

(i) the area of the OPEDS's electronic sign face measured in square feet; and

(ii) 100.

For example, if the OPEDS's electronic sign face measures 14' x 48', then the illuminance caused by such use could not exceed three-tenths (0.3) foot candle above ambient light at a perpendicular distance of 259 feet from the OPEDS's sign face.

(b) Every OPEDS shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's illuminance as provided above in direct correlation with natural ambient light conditions at all times.

10.

(a) An otherwise compliant OPEDS may not be illuminated, lit or operated between 11:00 p.m. and 6:00 a.m. if it is located within 600 feet of any property zoned or occupied for a residential use unless the owner or operator of the OPEDS establishes, in the conditional use approval process,

that at least one of the following conditions will exist:

(i) The illumination caused by the OPEDS does not exceed one-tenth (0.1) foot candle onto any property zoned or occupied for a residential use; or

(ii) The illumination caused by the OPEDS does not exceed the illumination caused by the predecessor (non-OPEDS) sign as of 23 May 2012, and that the text, image and graphics of the OPEDS will remain static between 11:00 p.m. and 6:00 a.m.

(b) The conditions in subsections (a)(i) and (a)(ii), above, are not applicable to the extent that the message is an emergency public safety warning or alert, such as an “Amber Alert.”

(c) Continuous compliance with the illumination limits of subpart (10)(a), above, shall be a condition of approval of any OPEDS located within 600 feet of any property zoned or occupied for a residential use.

11. OPEDS may not be located closer than 800 linear feet from any other OPEDS; subject to the following clarifications applicable to off-premise signs with two or more sign faces sharing the same support structure:

(a) Both sign faces of the same “double-sided” off-premise sign (i.e.—off-premise sign faces mounted on opposite sides of the same support structure, so that both sign faces are effectively not visible at the same time from any vantage point, as reasonably determined by the city) may be converted to OPEDS;

(b) Only one sign face of the same “layered” off-premise sign(s) (i.e.—two or more off-premise signs mounted in vertical tiers on the same support structure, so that such sign faces are effectively visible at the same time

from any vantage point, as reasonably determined by the city) may be converted to an OPEDS; and

(c) Only one sign face of the same “side-by-side” off-premise sign(s) (i.e.—two or more off-premise signs mounted horizontally on the same support structure, so that such sign faces are effectively visible at the same time from any vantage point, as reasonably determined by the city) may be converted to an OPEDS.

12. The following certifications are additional conditions of approval or continuation of any OPEDS:

(a) Within ten calendar days after an OPEDS is first placed into service, a written certification shall be submitted to the city from the owner/applicant that the sign has been tested and complies with the motion, dwell time, twirl time, illuminance and other requirements of this section.

(b) Based on complaints received, or for other reasonable cause, the city may from time to time require the owner or operator of an OPEDS to provide, within ten calendar days after receipt of the city’s written request, an updated written certification that the sign has been re-tested and has been repaired or modified, as necessary, to comply with the requirements of this section.

(c) The city also may, at its option, from time to time verify an OPEDS’s compliance with the requirements of this section, including by selecting and engaging qualified experts to measure the sign’s illuminance. If the city reasonably determines that an OPEDS is not in compliance with such requirements, then the owner or operator of the sign shall correct the noncompliance within ten calendar days after written notice from the city,

and shall reimburse all of the city's costs reasonably incurred in connection with such determination.

13. Any OPEDS not conforming to the requirements of this section is prohibited.

14. This section shall not be deemed to authorize, or allow application for, any additional billboards or other off-premise signs in the city beyond those billboard or other off-premise signs existing within city's boundaries as of its incorporation on 14 January 2005.

19.82.125 ~~Political~~ Temporary signs.

A. Except as otherwise specified in this code or other applicable law, neither ~~political~~ temporary signs nor any other type of sign may be placed in the public right-of-way or on any other public property under the city's ownership or control.

B. Unless otherwise allowed by federal or state law, ~~political~~ temporary signs shall not be located within 150 feet of any polling location.

C. Except as otherwise specified in this code or other applicable law, neither ~~political~~ temporary signs nor any other type of sign shall be located so as to adversely affect "clear view" or other public safety standards.

D. ~~Political~~ Temporary signs, and every other type of sign, shall comply with all other legal requirements.

E. Except as otherwise specified in this code or other applicable law, a permit under 19.82.140 shall be required to display any temporary sign.

19.82.130 Nonconforming signs.

Subject to UTAH CODE ANN. 10-9a-511 to -513, as amended:

A. *Change and modification.* A nonconforming sign or sign structure shall be brought into conformity with this title if it is altered, reconstructed, replaced, or relocated. A change in copy is not an alteration or replacement for purposes of this subsection.

B. *Maintenance.* Nonconforming signs must be maintained in good condition in accordance with this chapter. Maintenance means replacing or repairing of worn or damaged parts of a sign or sign structure in order to return it to its original state. Maintenance is not a change or modification prohibited by subsection (A), above.

C. *Removal.* Removal of a nonconforming sign or replacement of a nonconforming sign with a conforming sign is required when:

1. A nonconforming sign, or a substantial part of a nonconforming sign, is voluntarily taken down, altered, or removed. As used in this subsection, "substantial" means 50% or more of the entire sign structure; or

2. The condition of the nonconforming sign or nonconforming sign structure has deteriorated to a condition that is rendered reasonably unusable and is not restored or repaired within one year after written notice from the city to the property owner; or

3. The use of the nonconforming sign, or the property on which it is located, has ceased, become vacant, or been unoccupied for a period of at least one year. An intent to abandon is not required as the basis for removal under this subsection.

D. *Sign permit.* Any permit issued for a sign under this chapter shall require that any nonconforming sign displayed on the premises for which the permit is issued shall be modified or

removed to conform to the provisions of this chapter.

E. Development permit. Any building permit that authorizes the development of a premises, any building addition, an increase in gross floor area of 25% or more, or any exterior structural remodeling of a building facade on which a nonconforming sign is located, shall require all nonconforming signs on the premises for which the building permit is issued to be brought into conformity with the provisions of this title.

F. Separation. No sign that is nonconforming solely because it violates a requirement for the spacing of signs shall be required to eliminate that nonconformity if compliance with the spacing regulation on the premises is not possible.

19.82.140 Permits.

A. Permit required. No person shall erect, convert or display a sign unless the department has issued a permit for the sign or this section exempts the sign from the permit requirement.

B. Application. —A person proposing to erect, convert or display a sign shall file an application for a permit with the department. The application shall contain the following:

1. The name, address, and telephone number of sign contractor and the owner and occupant of the premises where the sign is to be erected, converted or displayed; the date on which it is to be erected, converted or displayed; the zoning district and the Area of Special Character, if any, in which it is located; and any variance that has been approved.

2. A color drawing to scale that shows:

- (a) All existing signs displayed on the premises;

- (b) The location, height, and size of any proposed signs;

- (c) The items of information proposed to be displayed; and

- (d) The percentage of the signable area covered by the proposed signs. This information is not required if a Program for Signs has been approved for the premises or occupancy on which the sign will be erected or displayed if the approved Program for Signs is attached to the application.

3. Specifications for the construction or display of the sign and for its illumination and mechanical movement, if any, are to be provided.

C. Review and time limits. The department shall promptly review the application upon the receipt of a completed permit application and upon payment of the permit fee by the applicant. The department shall grant or deny the permit promptly.

D. Approval or denial. The department shall approve a permit for the sign if it complies with the building, electrical or other adopted codes of the city with:

1. The regulations for signs contained in this chapter and any variance that has been granted from these regulations;

2. Any special regulations that have been adopted for an Area of Special Character; and

3. Any Program for Signs that has been approved under this chapter. If the department does not approve a permit for the sign, the department shall state the reasons for the denial in writing, and shall mail a certified copy of the

reasons for denial to the address of the applicant stated on the application.

E. Appeals. Any applicant who is denied a permit for the display of a sign may file a written appeal to the director within ten days after receipt of the written copy of the denial.

F. Fees. The fees for permit applications shall be as specified in the city's consolidated fee schedule.

G. Exemptions. The following signs are exempt from the permit requirement:

(a) A sign specifically exempted from the provisions of this chapter.

(b) A temporary window sign.

(c) A sign that is a permanent architectural detail of a building.

H. Conditional use permits. If this chapter requires issuance of a conditional use permit in connection with the erection, conversion or display of a sign, then application, processing, approval/denial, appeal, etc. for such shall be as provided in chapter 19.84 and any applicable provisions of this chapter, as reasonably determined by the city.

19.82.150 Enforcement.

A. Enforcement official. The director, or his designee, shall have the authority to enforce this chapter and to make all related inspections. Appeals of decisions under this chapter shall be to the board of adjustment.

B. Removal of signs.

1. Authority. The director is hereby authorized to require removal of any illegal sign and to commence an action to enjoin erection of any illegal sign.

2. Notice. Before bringing action to require removal of any illegal sign, the director, or his designee, shall give written notice to the owner of the sign

or the owner of the premises on which such sign is located. The notice shall state the violation charged, and the reasons and grounds for removal, specifying the deficiencies or defects and specify that the sign must be removed or made to conform with the provisions of this chapter within the notice period provided below.

3. Service of notice shall be made personally on the owner or lessee, or by certified mail addressed to the owner or lessee at the address specified in the permit, county records, or the last known address.

4. Notice period.

(a) The notice period for permanent signs shall be ten days.

(b) The notice period for temporary signs shall be three days.

5. Re-erection of any sign or substantially similar sign on the same premises after a notice of violation has been issued shall be deemed a continuation of the original violation.

6. Prosecution. If the owner or lessee of the premises upon which the sign is located has not demonstrated to the satisfaction of the director that the sign has been removed or brought into compliance with the provisions of this chapter by the end of the notice period, then the director shall certify the violations to the city prosecutor for prosecution.

7. Removal. The director may cause the removal of any illegal temporary sign which is maintained or re-erected after the expiration of the notice period, if the owner or lessee of the premises has been issued a notice of violation at least once before for the same violation involving the same or similar sign.

8. Safety hazard. Notwithstanding anything to the contrary in this chapter,

the director may cause the immediate removal or repair (without notice to the owner of the sign, or the property on which it is located) of any unsafe or defective sign or signs that create an immediate hazard to persons or property.

9. Costs of removal. The costs of removal of a sign by the city shall be borne by the owner of the sign and of the property on which it is located, and the city may bring an action for recovery of any such expenditures.

C. Liability for damages. This chapter shall not be construed to relieve or to limit in any way the responsibility or liability of any person, firm, or corporation, which erects or owns any sign, for personal injury or property damaged caused by the sign; nor shall this chapter be construed to impose

upon the city, its officers, or its employees, any responsibility or liability by reason of the approval of any sign under the provisions of this chapter.

19.82.160 Severability.

The invalidation of any section, subsection, clause, or phrase of this chapter by any court of competent jurisdiction shall not affect the validity of the remaining portions of this chapter.

19.82.170 Substitution.

Signs containing non-commercial messages are permitted anywhere that commercial signs are permitted, subject to the same regulations applicable to such signs.

DRAFT

19.82.170180 Charts, figures, graphs and maps.

(a) Chart 19.82.03-01

Monument Signs				
District	Type of Sign	Signable Area	Max. Height of Sign	Sign Setback
NC - Neighborhood Comm.	Monument	36 square feet	6 feet (including pedestal)	18 inches
CR - Regional Comm.	Group Monument	96 square feet	10 feet (including pedestal)	24 inches
PF - Public Facilities	Monument	36 square feet	6 feet (including pedestal)	18 inches
	Group Monument	48 square feet	6 feet (including pedestal)	18 inches
ORD - Office	Monument	36 square feet	6 feet (including pedestal)	18 inches
	Group Monument	48 square feet	6 feet (including pedestal)	18 inches
ORD - Office/Resarch Park	Monument	64 square feet	8 feet (including pedestal)	24 inches
	Group Monument	96 square feet	10 feet (including pedestal)	24 inches

(b) Chart 19.82.05-01

Projecting Signs			
District	Type of Sign	Signable Area	Height of Sign
NC -Neighborhood Comm.	Projecting	10 % of façade	8 foot min. clearance, 18 foot max.
CR - Regional Comm.	Projecting	10 % of façade	8 foot min. clearance, 18 foot max.
PF - Public Facilities	Projecting	10 % of façade	8 foot min. clearance, 18 foot max.
ORD - Office	Projecting	10 % of façade	8 foot min. clearance, 18 foot max.
ORD - Office/Research Park	Projecting	10 % of façade	8 foot min. clearance, 18 foot max.

(c) Map 19.82.123

(OPEDS overlay zone map is on file with city).



MEMORANDUM

To: Cottonwood Heights Planning Commission
From: Glen Goins, Senior Planner
Date: January 12, 2016
Subject: Proposed Text Amendment to Chapter 19.36, Mixed Use

REQUEST

Staff is proposing a text amendment to chapter 19.36 (Mixed Use) of the city's zoning ordinance. Changes are being proposed to modify certain sections of the code which would render certain uses as "permitted" that are currently conditional uses. The language also corrects certain discrepancies.

BACKGROUND

Currently in the city's Mixed Use code, there are a significant number of conditional uses, and relatively fewer permitted uses. Staff examined those uses to determine which, if any, could be considered as permitted uses, based on scale and impacts. The code also listed specific commercial uses, while omitting other certain types. These uses were generalized, and included benchmarks, such as square footage, which would determine when those uses would be placed in either the permitted or conditional use classification.

RECOMMENDATION

Staff recommends that the planning commission review the proposed mixed use code revision and forward a recommendation to the City Council.

MODEL MOTIONS

Sample Motion for Approval – "I move that we forward a positive recommendation to the City Council for project ZTA-15-003, a city initiated request to amend chapter 19.36 (Mixed Use) of the Cottonwood Heights zoning ordinance, based on the findings found in the Staff Memo dated January 12, 2016:"

- List any proposed additions or changes....
- List any additional findings.....

Sample Motion for Denial – "I move that we forward a negative recommendation to the City Council for project ZTA-15-003, a city initiated request to amend chapter 19.36 (Mixed Use) of the Cottonwood Heights zoning ordinance, based on the findings found in the Staff Memo dated January 12, 2016:"

- List findings for negative recommendation....

Chapter 19.36
MU -- MIXED USE ZONE

Sections:

- 19.36.010 Purposes.**
- 19.36.020 Permitted uses.**
- 19.36.030 Conditional uses.**
- 19.36.040 Mixed use building.**
- 19.36.050 Maximum height of structures.**
- 19.36.060 Maximum lot coverage.**
- 19.36.070 Development standards.**
- 19.36.080 Minimum lot size.**
- 19.36.090 Setbacks, yards and other requirements.**
- 19.36.100 Use of existing structures.**
- 19.36.110 Master development plan required.**
- 19.36.120 Lighting.**
- 19.36.130 Screening.**
- 19.36.140 Landscaping requirements.**
- 19.36.150 Mixed-use self-storage.**

19.36.010 Purposes.

A. The purposes of the MU zone are to provide areas in the city ~~primarily for medium to high density residential a mix of uses, including mixed-use developments, with commercial, institutional, office and service uses apportioned on-site in a manner sensitive to the street environment and adjacent residential areas uses;~~ to support an urban village where amenities are focused on a local main street; to encourage and support transit-oriented development by allowing transit supportive density, where desired; and to enhance the accessibility of the Fort Union area and the Gateway Overlay District.

B. The MU zone is intended to achieve cohabitation of uses, while ensuring that negative impacts on residents are minimized. The spaces created in the MU zone are intended to encourage a diminished need for

motorized travel and shall possess characteristics (accomplished through roads, passages and sidewalks) that serve the needs of pedestrians, bicyclists and motor vehicle users while still allowing casual encounters of human beings at an intimate, or pedestrian, scale.

19.36.020 Permitted uses.

A. Permitted uses include the following:

1. Mixed-use residential buildings as defined in this chapter;
 - ~~2.~~ 3. Bed and breakfast;
 - ~~2,3.~~ 4. Churches;
 - ~~3,4.~~ 5. Commercial recreation;
 - ~~5.~~ 6. Convenience store without gasoline or convenience store/fast food combination without gasoline;
 - ~~6.~~ 7. Home occupations;
 - ~~7.~~ 8. Home daycare/preschool (less than six children);
 - ~~8.~~ 9. Retail, gross square footage less than 25,000 square feet;
 - ~~9.~~ 10. Financial institutions;
 - ~~4.~~ 5,10. Community recreation services;
 - ~~11.~~ 12. Convenience retail stores;
 - ~~12.~~ 6,13. Restaurant, under 25,000 gross floor area;
 - ~~6,13.~~ 7,14. Shop for the manufacture of retail articles sold primarily on the premises;
 - ~~7,14.~~ 8,15. Government services;
 - ~~8,15.~~ 16. Retail;
 - ~~16.~~ 9,17. Public libraries and cultural exhibits;
 - ~~9,17.~~ 10,18. Open food stand/market, temporary;
 - ~~10,18.~~ 11,19. Professional office, administrative and medical buildings professional with a maximum of ~~two~~ two stories, and a maximum of ~~10~~ 25,000 gross square feet; and
 - ~~11,19.~~ 12. Grocery store, foodstuffs, retailing, or delicatessen with a maximum gross floor area of ~~10~~ 25,000 gross square feet.
- ~~B. Any use with an individual gross~~

floor area greater than 10,000 square feet, or more than two stories in height, shall be considered a conditional use regardless of its possible classification here as a permitted use.

19.36.030 Conditional uses.

A. Conditional uses in the MU zone include the following:

- ~~1. Churches;~~
- ~~2. Home occupations;~~
- ~~3-1. Home pre-schools, more than 6 students;~~
- ~~2. Child daycare/preschool;~~
- ~~4-3. Convenience store with gas~~
- ~~5-4. Parks, playgrounds or community recreation;~~
- ~~6. Planned unit developments;~~
- ~~7-5. Public and private utility buildings or facilities;~~
- ~~8-6. Residential facilities for persons with disabilities;~~
- ~~9-7. Residential facilities for elderly persons;~~
- ~~8. Schools;~~
- ~~10-9. Grocery store, foodstuffs, retailing, or delicatessen greater than 25,000 gross square feet;~~
- ~~11-10. Hotels;~~
- ~~12-11. Class D private clubs;~~
- ~~13-12. Retail with gross square footage greater than 1025,000 square feet;~~
- ~~13. Commercial schools;~~
- ~~14. Professional office, administrative and medical buildings greater than 25,000 gross square feet;~~
- ~~15. Supermarkets (groceries, meats and baked goods);~~
- ~~16-15. Hardware, lawn and garden supply stores;~~
- ~~17-16. Administration or professional offices with a floor area greater than 10,000 square feet;~~
- ~~18-17. Restaurant, over 25,000 gross square feet;~~
- ~~19-18. Indoor theatre;~~
- ~~20-19. Shop for making articles sold primarily at retail on the premises;~~

- ~~21. Commercial recreation;~~
- ~~22-20. Banks, savings, loan, and finance offices;~~
- ~~23-21. Department stores, furniture and variety stores;~~
- ~~24-22. Open stands or markets;~~
- ~~25-23. Garages (public); and~~
- ~~26-24. Mixed-use self-storage.~~

B. Unlike the NC zone, which is intended for smaller mixed-use developments potentially within established communities, the MU zone does not have a maximum allowed floor area for most uses. Such deregulation is intended to encourage those proposing larger commercial and residential developments to consider creating a mixed-use development rather than a regional commercial type development.

C. Any applicant requesting an increase in height or decrease in setbacks which are standard in the MU zone, or any other variation based on permitted planning commission approval under this chapter, shall be considered a conditional use.

19.36.040 Mixed-use building.

A mixed-use building is a single building containing more than one type of land use, or a single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas. An example of a mixed-use residential building with a retail storefront on the main floor and two floors of residential living above the main floor is below (three story buildings are a conditional use):

Commented [KCJ1]: Why is this deleted and not included in Permitted Uses?

Commented [BB2R1]: We will add this to the permitted uses section.

Commented [KCJ3]: Why is this conditional when other retail or food establishments under 25,000 square feet are now permitted?



~~conditioned on the planning commission's receipt of a favorable recommendation of the DRC, the planning commission may authorize density of no greater than 16 residential units per acre upon a finding that such increased density will not adversely affect the public health, safety or welfare.~~

19.36.050 Maximum height of structures.

Structures in an MU zone shall not exceed a height of ~~45 feet two stories, or 35 feet, whichever is less, unless the building is immediately adjacent to a residential zone. In that case, the structure shall be set back one (1) additional foot for every foot above 35 feet. The planning commission, after receiving favorable recommendation from the DRC, may increase the maximum height of a structure in an MU zone to no more than three stories, upon a finding that such increased height will not adversely affect the public health, safety or welfare.~~

19.36.060 Maximum lot coverage.

In an MU zone, buildings shall not occupy more than ~~65 sixty-five~~ percent (65%) of the lot area.

19.36.070 Development standards.

Any development in the MU zone shall conform to the city's general plan, the standards of the city's Gateway Overlay District ~~(established under chapter 19.49 of this title)(if applicable),~~ and the standards of this chapter. The maximum density of any development in the MU zone ~~is 12 shall not exceed 35~~ units per acre. ~~If a developer clearly shows that a proposed development meets, or exceeds, the guidelines, goals, objectives and standards of the city's Gateway Overlay District, and~~

19.36.080 Minimum lot size.

Except as may be required to meet minimum setbacks and any requirements providing for a minimum square footage of a building or structure, there are no minimum lot size requirements, provided that the density requirements of this chapter are met.

19.36.090 Setbacks, yards and other requirements.

A. *Yards and setbacks.*

1. The minimum front or side yard along a street shall be ~~twenty (20)~~ feet; however, the planning commission may reduce ~~or eliminate that the~~ setback if it finds that the reduction ~~or elimination~~ helps create a better designed development, and that the reduction ~~or elimination~~ will not adversely affect the public health, safety or welfare.

2. Minimum side and rear yards of ~~twenty-five (25)~~ feet shall be required for side or rear yards of a lot in an MU zone abutting a residential zone. For lots adjacent to a non-residential zone, the minimum setback shall be ten (10) feet for side and rear yards not on a street; however, the planning commission may reduce the setback if it finds that the reduction helps to create a better designed development, and that the reduction will not adversely affect the public health, safety or welfare.

B. *Building orientation.*

1. All single-family attached homes and multi-family residential complexes

Commented [KCJ4]: Jumping from 12 to 35? That is a big increase..

Commented [BB5R4]: The primary areas for any proposed Mixed Use is along Fort Union and the gravel pit. The increase lends itself to a greater potential for mixing of uses.

shall have their primary orientation to the street. Entrances to multi-family buildings may include entrances to individual units or breezeway/ courtyard entrances; or

2. All single-family attached homes and multi-family residential complexes may have their primary orientation to a side yard when a direct pedestrian walkway is provided between the main entrance and the street, with at least one entrance located not more than twenty 20 feet from the curb line of the street.

C. Design guidelines and standards. ~~If multi-family residential design guidelines, standards, or a review process are not indicated by a location in the Gateway Overlay District, all multi-family residential and all mixed use developments shall comply with the provisions of the City's Design Guidelines, meet, and shall be reviewed and approved by the ARC under, the standards contained in the city's Gateway Design Guidelines, which shall be in addition to the development standards specified in this chapter.~~

D. Parking. ~~The provisions of chapter 19.80 of this title regarding off-street parking, loading and driveway standards shall apply to all residential developments in the MU zone.~~

E. Landscaping. ~~All applications for development in the MU zone shall provide landscaping in compliance with the standards of this chapter and the Gateway Overlay District.~~

19.36.100 Use of existing structures.

The continued use of an existing structure in the MU zone is permitted, provided that the structure meets the requirements of this chapter and any other applicable ordinances.

19.36.110 ~~Master development~~Site plan required.

Developments ~~of three or more acres~~ in the MU zone must submit a ~~master development site~~ plan, which is subject to planning commission approval.

19.36.120 Lighting.

A. Uniformity of lighting is desirable to achieve an overall objective of continuity, and to avoid objectionable glare.

B. The maximum height of luminaries shall be eighteen (18) feet unless the planning commission requires a lower height as part of conditional use approval. The light shall be low intensity, shielded from uses on adjoining lots, and directed away from adjacent property in a residential or agricultural zone or an adjacent residential or agricultural use.

C. Pedestrian walkways shall be lighted.

D. All lighting next to residential ~~uses zones~~, or where the planning commission requires, shall be ~~full cut-off lighting~~ directional, contain hoods or other measures to hide the light source, and be generally at a lower height to reduce light pollution and light spillage to the adjacent residential zone, and may require a photometric study to be provided, as determined by staff.

19.36.130 Screening.

A. All trash or refuse receptacle areas shall be completely screened from surrounding properties by a masonry wall or screening that is a minimum of six feet high with visually obscuring painted metal gates or shall be enclosed within a building. Any trash or refuse receptacle area shall be a minimum of fifty (50) feet from any residential or agricultural zone boundary or property containing a residential or agricultural use.

Commented [KCJ6]: Do we need to define what the site plan must include? If it is multiple parcels owned or under common control or being developed through a joint venture or joint agreement, the entire area should be included in the site plan, not just a segment for Phase 1 development.

Commented [BB7R6]: That is already done in Section 19.87 Site Plan Review of the Zoning Ordinance.

B. All ground-mounted mechanical equipment (including, without limitation, heating and air conditioning units) shall be completely screened from surrounding properties by a masonry wall or shall be enclosed within a building.

C. The use of roof appurtenances is discouraged. If roof appurtenances (including, without limitation, air conditioning units and mechanical equipment) are used, they shall be placed within an enclosure at least as high as such roof appurtenances that reflects the architectural design scheme of the project and complies with the requirements for penthouses and roof structures of the city's building code. Such enclosures require planning commission approval, and shall minimize visibility from on-site parking areas, adjacent public streets, and residential or rural residential zoned property. Landscaping and/or rooftop patio equipment and screening may be used to screen mechanical and other rooftop equipment, as approved as part of a site plan. The landscaped area may not be enclosed or screened in such a way so as to create permanent occupancy space.

D. All utility connections shall be compatible with the architectural elements of the site and not be exposed except where necessary. Pad-mounted transformers and/or meter box locations shall be included in the site plan with an appropriate screening treatment. Power lines and other utility cables shall be installed underground where possible.

E. Loading areas and docks shall be screened by landscaping and/or visual barriers from adjacent properties and public streets.

F. All development located in a Gateway Overlay District shall comply with the stated goals and standards of ~~such that~~ district.

19.36.140 Landscaping requirements.

All developments 1 acre or more in size shall dedicate fifteen percent (15%) of the lot to landscaping, including, without limitation, landscape buffers, seating areas, natural walking paths separate from sidewalks, and so on. Drought resistant plants are encouraged. Further,

A. All developments in the MU zone shall provide a landscaped buffer between any commercial development and any adjoining residential zone. The landscaped buffer shall be at least eight (8) feet wide, and shall include trees planted at least every thirty (30) feet on center. This requirement may be included within the side and rear setbacks of the MU zone.

B. Developments in the MU zone are intended to blend with the surrounding land uses, whether they are residential or non-residential. For that reason, the landscaped buffer should not be used as an obstructing barrier between land uses, but instead should provide a landscaped transition between uses and pedestrian walkways and trails.

19.36.150 ~~Mixed-use self-storage~~ Site Plans.

In this title, "~~mixed use self-storage site plans~~" means a plan or set of plans for a single building or series of buildings containing ~~more than~~ the primary land use ~~of self-storage~~, or a single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas. ~~A mixed use self-storage facility is~~ Uses in the Mixed Use zone are intended to ~~be used for~~ contain a mix of uses, ~~between the~~

Commented [KCJ8]: Why was self-storage addressed specifically in the past and why are we eliminating it now in favor of the Site Plan discussion?

Commented [BB9R8]: We are not sure and couldn't find anything that helped define the reason for the specificity of self-storage uses.

~~primary use of a private non-commercial, non-industrial storage facility and including~~ general, professional office, medical or dental offices, retail ~~and/or~~ residential dwelling units uses.

A. ~~Mixed use self storage~~ Uses in the Mixed Use zone over 25,000 square feet of Gross Leasable Area shall be reviewed for building design, scale and architectural compatibility with established design principles by the architecture review commission (the "ARC"). The ARC shall make a recommendation regarding the proposed ~~mixed use self storage facility~~ use to the planning commission.

B. The following criteria shall be considered by the ARC and the planning commission when reviewing ~~conditional use requests~~ a site plan(s) for uses over 25,000 square feet for mixed use self-storage facilities:

~~1. The second (and any additional) principal use shall be distinct from, unrelated to and not an accessory of the self-storage use of the facility.~~

~~2. A minimum of 1,500 square feet or 10% of the ground floor area of the self-storage principal use of the facility, whichever is greater, shall be devoted to at least one additional principal use in each building housing a self-storage use. The additional principal use may be either general, professional office, medical or dental offices, retail or residential dwelling units uses or an appropriate mix of any or all of the above uses.~~

~~3.1. Detailed building elevations and color/material boards shall be submitted to and reviewed by the ARC prior to any consideration by the planning commission of an application for conditional use permit for a mixed use self-storage facility~~ site plan approval.

~~4.2.~~ Exterior building materials must be approved by the ARC, and shall match the quality, texture and architectural intent of surrounding buildings, ~~if applicable~~ and the intent and regulations of ~~the gateway~~ any applicable overlay zone design guidelines.

~~5.3.~~ All buildings shall have a minimum of fifteen percent (15%) transparency on all floors, which shall consist of ~~functioning~~ windows that provide visibility ~~into a room~~ from the public right-of-way or adjacent property ~~and out of a room from the interior~~.

~~6. All building facades shall have the appearance of an office, residential and/or retail building through the use of doors, windows, awnings, and other appropriate building elements as approved by the ARC.~~

~~7.4.~~ Buildings with more than one story shall be designed to have the appearance and function of a multi-story building through the use of windows, doors, awnings, canopies and other appropriate building and architectural elements.

~~8.5.~~ The front façade of ~~the~~ buildings, visible from the public right of way, shall be designed to have ample bulk and massing and design quality to adequately mitigate the potential aesthetic impact of the self-storage primary use, as approved by the ARC establish a prominent, pedestrian-oriented streetscape.

~~9.6.~~ External unit doors must be screened from neighboring land uses to an extent determined appropriate by the ARC based on the potential impact to surrounding land uses.

C. Signage. Approval of signage is subject to the applicant meeting the regulations contained herein and in other pertinent chapters of this title. Signage in mixed-use self-storage facilities shall be

limited to wall, monument and projecting signs as outlined below.

1. Wall signs for ~~mixed-use self-storage facilities~~ uses in the Mixed Use zone are:

(a) Limited to one sign for each separate principal use for each unit, suite or other division of the building whose business facade fronts on a public street.

(b) Limited to no more than ten percent (10%) of the business facade frontage for each associated principal use.

(c) No sign shall exceed six (6) feet in overall height.

(d) Signage is limited to individual pan-channel lettering only. Cabinet signs are not permitted.

2. Monument signs for the uses in the ~~mixed-use~~ Mixed Use self-storage facilities zone are:

(a) Limited to one sign along an adjacent public street for each building facade which fronts that street.

(b) Limited to a total of forty-eight (48) square feet of signable area.

(c) Limited to a maximum height of six (6) feet, including the pedestal.

3. Projecting signs for mixed-use self-storage facilities may be used in lieu of wall signs and:

(a) Are limited to no more than ten percent (10%) of the business facade frontage for each associated principal use.

(b) Shall maintain a vertical clearance of at least eight (8) feet, and no more than eighteen (18) feet, from the adjacent sidewalk, drive area or other adjacent ground.

~~4. The ARC shall review proposed signage plans for mixed use self storage facilities and shall make a recommendation to the planning commission on the design compliance of the signage as it relates to:~~

~~(a) Consistency with existing signage in the district where the facility is located.~~

~~(b) Consistency with the design intent of the facility as it relates to materials, colors and placement on buildings and in landscaped areas.~~

D. No resident manager apartment shall be allowed in mixed-use self-storage facilities unless at least fifty percent (50%) of secondary uses are residential.

E. No outside storage of vehicles, boats, motor homes, RVs or any other materials or equipment shall be allowed at or around any mixed-use ~~self-storage~~ facility.

F. Commercial moving truck rentals shall be prohibited at mixed-use self-storage facilities. A mixed-use self-storage facility shall be allowed to have no more than two private moving trucks owned and operated by the facility and available to the renters of units within the facility only. Moving trucks meeting the above regulation shall be stored out of sight of the public way.

DRAFT



MEMORANDUM

To: Cottonwood Heights Planning Commission
From: Glen Goins, Senior Planner
Date: January 12, 2016
Subject: Proposed Text Amendment to Chapter 19.76, Supplementary & Qualifying

REQUEST

Staff is proposing a text amendment to chapter 19.76 (Supplementary and Qualifying) of the city's zoning ordinance. Changes are being proposed to modify certain sections of the code to add clarification to home occupations and walls and fences. There are also minor grammatical changes.

BACKGROUND

Recent land use issues has arisen which have involved the Supplementary and Qualifying section. Staff has considered prudent changes, mainly to two sections of the code involving home occupations, and fences and walls. There are other minor grammatical corrections or clarifications as well.

RECOMMENDATION

Staff recommends that the planning commission review the proposed mixed use code revision and forward a recommendation to the City Council.

MODEL MOTIONS

Sample Motion for Approval – “I move that we forward a positive recommendation to the City Council for project ZTA-15-004, a city initiated request to amend chapter 19.76 (Supplementary and Qualifying) of the Cottonwood Heights zoning ordinance, based on the findings found in the Staff Memo dated January 12, 2016:”

- List any proposed additions or changes....
- List any additional findings.....

Sample Motion for Denial – “I move that we forward a negative recommendation to the City Council for project ZTA-15-004, a city initiated request to amend chapter 19.76 (Supplementary and Qualifying) of the Cottonwood Heights zoning ordinance, based on the findings found in the Staff Memo dated January 12, 2016:”

- List findings for negative recommendation....

**Chapter 19.76
SUPPLEMENTARY AND
QUALIFYING RULES AND
REGULATIONS**

Sections:

19.76.010 Effect of chapter provisions.

19.76.020 Lots and lot area.

**19.76.030 Structures, bulk and
massing requirements.**

19.76.040 Land use.

19.76.050 Miscellaneous.

19.76.010 Effect of chapter provisions.

The rules and regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this title.

19.76.020 Lots and lot area.

A. Lots in separate ownership. The requirements of this title as to minimum lot area or lot width shall not be construed to prevent the use for a single-family dwelling of any lot or parcel of land, provided that such lot or parcel of land is located in a zone which permits single-family dwellings, and is a legally divided lot held in separate ownership at the time such requirements became effective for such lot or parcel of land.

B. Separately owned lots—Reduced yards. On any lot under a separate ownership from adjacent lots and of record at the time of passage of the ordinance codified herein, and such lot having a smaller width than required for the zone in which it is located, the width of each of the side yards for a dwelling may be reduced to a width which is not less than the same percentage of the width of the lot as the required side yard would be of the required lot width; provided that, on interior lots, the smaller

of the two yards shall be in no case less than five feet, or the larger less than eight feet; and for corner lots, the wide yard on the side street shall be in no case less than 15 feet or the other side yard be less than five feet.

C. Division of a two-family dwelling. Upon certification by the director, a legal, or legal non-conforming, existing or proposed two-family dwelling may be divided into attached single-family dwellings by dividing the lot. Each dwelling shall have a minimum lot area equal to one-half of the minimum lot area required in the zone for a two-family dwelling, which in no case shall be less than 4,000 square feet, and must meet all building, fire, health, parking and other requirements for a single-family dwelling. An application for lot division certification must be accompanied by a site plan showing buildings, landscaping, parking, and any other information deemed necessary by the director. The director may attach conditions to certification consistent with the purpose of the zoning ordinance. Any sale (prior to certification herein) dividing a lot occupied by a two-family dwelling shall be a misdemeanor.

D. Sale of lots below minimum width and area. No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a large parcel of land for the purpose, whether immediate or future, of building or development as a lot, except by permit of the board of adjustment.

E. Sale of space needed to meet requirements. No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for a lot or building may be sold or leased away from such lot or building.

F. Yard space for one building only. No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established. This section shall be so construed to mean only one main building may be permitted on one lot, unless otherwise provided in this title.

G. Front yard measurement from map. Wherever a front yard is required for a lot facing on a street for which an official map has been recorded in the office of the city recorder, the depth of such front yard shall be measured from the mapped street line provided by the official map.

19.76.030 Structures, bulk and massing requirements.

A. Dwellings, including guest homes, on lots.

1. Every dwelling shall be located and maintained on a lot, as defined in this title. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy a lot.

2. Guest houses shall be a permitted use in the following zones:

- (a) R-1-8; R-1-10; and R-1-15
- (b) RR-1-21; RR-1-29; and RR-1-43
- (c) F-1-21; and F-1-43
- (d) F-20

3. The guest house shall be a detached accessory use to a principal residence and shall be located in the rear yard of the principal lot.

4. The maximum allowed area of the guest house shall not exceed 25% of the area of the rear yard.

5. The floor area of the guest house and principal residence combined shall not exceed the maximum impervious surface coverage for the site.

6. The rental or lease of a guest house, or the use of a guest house as a permanent residence for a second family on the premises shall be prohibited.

7. Installation of separate utility meters for the guest house is prohibited.

8. All bulk and massing requirements for accessory buildings, as per the applicable zone, shall be applicable to the guest house.

B. Accessory buildings—Area of coverage. No accessory building or group of accessory buildings in any residential zone shall cover more than 25% of the rear yard.

C. Public use—reduced lot area and yards. The minimum lot area and minimum yard requirements of this title may be reduced by the planning commission for a public use. The planning commission shall not authorize a reduction in the lot area or yard requirements if rule 19.76.030(H), “Additional height allowed when,” is in use, or unless the evidence presented is such as to establish that the reduction will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

D. Structure height — Vertical measurement.

1. Structure height shall be measured by taking the average vertical distance measured at the four corners of the main structure. This measurement shall be taken from the original natural grade of the lot to the highest point of the roof structure. In cases where the four corners of the structure are not explicitly

clear, the city's building official and the director shall designate the four corners of the structure.

2. Structures may be stepped to accommodate the slope of the terrain provided that each step shall be at least 12 feet in horizontal dimension. The height of each stepped segment shall be measured as required in subsection (A).

3. Original ground surface shall be the elevation of the ground surface in its natural state before any manmade alterations such as, without limitation, grading, excavation or filling, excluding improvements required by zoning or subdivision ordinances. When the elevation of the original ground surface is not readily apparent because of previous manmade alterations, the elevation of the original grade shall be determined by the director using the best information available.

E. Lot grade – measurement. The percent grade of a lot shall be derived by determining the percent increase or decrease in elevation using the area of the proposed structure footprint and the front yard.

F. Height limitations—Buildings less than one story. No building shall be erected to a height less than one story above grade.

G. Height limitations—Exceptions. In the ORD, CR, MU, NC, RO and PF zones, penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building may be erected above the height limits prescribed in this title when approved by the planning commission, but no space above the height limit shall be allowed for the purpose of providing additional floor space.

H. Additional height allowed when. Public or semipublic utility buildings,

when authorized in a zone, may be erected to a height not exceeding 40 feet if the building is set back from each otherwise established building line at least one foot for each additional foot of building height above the normal height limit required for the zone in which the building is erected.

I. Story, first. The lowest story in a building that qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story. Where a floor in a building is more than four feet below grade for more than 50% of the total perimeter of the building, or more than eight feet below grade at any point, that floor will not qualify as a story for the purposes of measuring maximum structure height.

J. Yard requirements. “Yard” means a space on a lot, other than a court, unoccupied and unobstructed from the ground upward by buildings or structures, except as follows:

1. Fences;
2. Canopies, not to include temporary or permanent carports.
3. Accessory buildings in a rear yard including temporary or permanent carports;
4. The ordinary projections of windows where the projection is at least 18 inches above floor level, roofs, cornices, chimneys, flues, and other ornamental features which project into a yard not more than three feet;
5. Open or lattice-enclosed exterior stairways, located in a commercial or manufacturing zone, projecting into a yard not more than five feet; and
6. Structures less than 18 inches in height from the finished ground surface.

K. Demolition permits.

1. An approved site plan is required before a commercial building can be approved for demolition.

2. The following items must be submitted to obtain a demolition permit:

(a) An asbestos inspection from an approved asbestos inspector.

(b) A completed and approved "Pre-demolition Building Inspection Form" from Salt Lake Valley Health Department.

(c) Approval for demolition from the Utah Division of Air Quality.

(d) A letter or email, from all service providers to the property or structure, indicating that all utilities have been terminated.

(e) A completed city building permit application.

L. Portable storage containers. In all municipal, residential, commercial, office or mixed-use zone, portable storage containers are permitted only in accordance with the following:

1. As a temporary use, not to exceed 180 days, during the construction, remodeling or redevelopment of a permanent on site structure with a valid building permit.

2. In no case shall a lot contain more than one of such portable storage containers, nor shall any portable storage container be located in required landscape areas, front yard area, required open space, detention basins, drive aisles, fire lanes, required parking spaces, loading zones or any other location that may cause a threat to public safety, or create a condition detrimental to surrounding land uses and property owners.

3. For commercial, office and mixed-use zones a temporary site plan must be submitted for review by the department. Approval of more than one portable storage containers may be approved by staff if the DRC finds that the addition will not jeopardize the public health, safety or welfare or create a

nuisance. In addition, the temporary use of portable storage containers shall not violate a conditional use approval.

M. Construction mitigation plan for residential construction. Prior to commencement of construction, a written construction mitigation plan addressing the following elements must be approved by the director or his designee. The construction mitigation plan shall address the following elements: (Please note: all elements may not apply to each individual project. There may also be additional elements, unique to the project that involve public health and safety issues).

1. Hours of operation. The hours of operation are 7:30AM to 6:00 PM, Monday thru Saturday, and 9:00AM to 6:00 PM on Sunday. Upon a clear and convincing showing by the applicant that a waiver to the hours of operation is necessary and will not jeopardize the public health, safety or welfare, the director may modify hours of operation through the building permit. Exclusively indoor construction beyond the hours of operation listed above in this subsection shall be exempt from such hours of operation unless the director determines that such extended hours will adversely impact the surrounding neighborhood.

2. Parking. Construction vehicle parking shall be restricted at construction sites so as to not block reasonable public and safety vehicle access along the street and sidewalks. Within paid and permit only areas, an approved parking plan must be obtained from the Public Works Department.

3. Deliveries. Deliveries of all materials and supplies may be regulated as to time (hours of operation) and routing.

4. Stockpiling & staging. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on site may be required.

5. Construction phasing. Due to narrow streets, topography, small lot configuration, traffic circulation, weather, construction parking and material staging problems, some projects may be required to be phased. In cases where phasing is deemed necessary, the first project to receive a building permit shall have priority, however, the building official shall have authority to phase projects as necessary to assure efficient, timely and safe construction.

6. Trash management and recycling of materials. Construction sites shall provide adequate storage and a program for trash removal. Construction material recycling bins are encouraged on sites with adequate room for separation of materials.

7. Control of dust & mud. A program for the control of dust or other airborne debris shall be required. Provisions must be made to prevent the tracking of mud on streets and it will be required to remove any such mud daily. Placing gravel in the egress and ingress areas to a job site is one method to control mud and dust problems.

8. Noise. Any noise above 65 decibels violates the noise ordinance, as well as any excessive or unusually loud noise that is plainly audible beyond the property line or outside the hours of operation.

9. Grading and excavation. Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of dirt shall be addressed. Any excavation six

feet (1.8 m) or more in depth shall be protected from falling hazards by guardrail roofs, systems, fences, or barricades.

10. Temporary lighting. An approved temporary lighting plan must be obtained from the Planning Department if any exterior temporary lighting is necessary for construction.

11. Construction sign. A sign shall be posted in a location where the sign is readable from the street or driveway. The sign shall not exceed 12 square feet in size and six feet in height. The lettering shall not exceed four inches in height. Information on the sign shall include:

(a) Name, address and phone ~~num-~~
~~ber~~number of the contractor

(b) Name, address and phone ~~num-~~
~~ber~~number of the person responsible for the project

(c) Name and phone number of the party to call in case of an emergency

N. Private swimming pools.

1. Definition. In this title “private swimming pool” means any pool, tank, depression or excavation in or above ground, or other structure, which:

(a) Causes retaining of water over a depth of 18 inches and/or having a larger plane surface of water greater than 150 square feet,

(b) Is designed or used for swimming, wading or immersion purposes by individuals, and

(c) Is used or intended to be used solely by the owner, lessee or tenant of the realty on which it is situated (and his family and by friends invited to use it) without payment of any fees.

2. Permit. It shall be unlawful for any person to construct, alter or repair a private swimming pool within the city without first having secured a permit from the building official. An

application for this permit shall be made on such forms as may be furnished by the city, and shall be accompanied by complete plans and specifications for the private swimming pool, including the type and location thereof with respect to the boundary lines of the land of the applicant. The applicant shall pay the fees established for such permit.

O. Temporary buildings.

1. Temporary buildings for uses incidental to construction work shall be required to obtain a permit from the CBO.

2. Temporary buildings must be removed upon completion or abandonment of the construction work.

3. If such buildings are not removed within 90 days upon completion of construction and 30 days after notice, the buildings will be removed by the city at the expense of the owner.

~~P. Residential corner lot rear setback in R-1 zones. Corner lots in the R-1-6, R-1-8, R-1-10 and R-1-15 residential single family zones shall maintain a minimum rear setback of 15 feet for main structures; provided, however, that any portion of a main structure that is located closer than 20 feet from the rear lot line may not exceed 20 feet in height.~~

19.76.040 Land use.

A. Occupancy permit.

1. Land, buildings and premises in any zone shall hereafter be used only for the purpose listed in this title as permitted or conditional in that zone, and in accordance with the regulations established in this title in that zone.

2. The permit of occupancy shall be issued by the director to the effect that the use and/or building or premises conforms to the provisions of this title and related ordinances prior to the occupancy of any

building hereafter erected, enlarged or structurally altered, or where any vacant land is hereafter proposed to be occupied or used, except for permitted agricultural uses.

3. Such a permit shall also be issued whenever the character or use of any building or land is proposed to be changed from one use to another use.

4. Upon written request from the owner, such a permit shall also be issued covering any lawful use of a building or premises existing on the effective date of the amendment codified herein, including nonconforming buildings and uses.

B. Uses not listed—Compatibility standards. It is recognized that new types of land uses may develop and various forms of land uses not anticipated may seek to locate in the city. The provisions of this section shall provide a mechanism to classify land uses not listed in this title. Determination as to the classification of uses not specifically listed in this title shall be made as follows:

1. Written request. A written request for such a determination concerning an unlisted and not codified proposed land use shall be filed with the director. The request shall include a detailed description of the proposed use and such other information as the director may require.

2. Investigation. The director thereupon shall make such investigations as are deemed necessary to compare the nature and characteristics of the proposed use with those of uses specifically listed in this title, and to make a determination of its classification, using the following compatibility standards:

(a) Volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;

(b) Any processing done on the premises; assembly, manufacturing,

Commented [GG1]: Add to all R-1 zones at the same time

smelting, warehousing shipping and distribution; and dangerous, hazardous, toxic or explosive materials used in processing;

(c) The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored. business vehicles, work in process, inventory and merchandise, construction materials, scrap and junk, and bulk materials, ores, powders and liquids;

(d) Number and density of employees and customers, per unit area of site and buildings in relation to business hours and employment shifts;

(e) Business hours the use is in operation or open for business, ranging from seven days a week, 24 hours a day to once to several times a year, such as sports stadiums or fairgrounds;

(f) Transportation requirements, including modal split for people and freight, by volume, type and characteristics of traffic generation to and from the site, trip purposes, and whether trip purposes can be shared with other uses on the site;

(g) Parking characteristics, turn over and generation, ration of the number of spaces required per unit area or activity, and potential for shared parking with other uses.

(h) Predilection of attracting or repelling criminal activities to, ~~form~~ from or other premises;

(i) Amount and nature of nuisances generated on the premises noise, smoke, odor, glare, vibration radiation, and fumes; and

(j) Any special public utility requirements for serving the use water supply, waste water output, pre-treatment of wastes and emissions recommended or required, and any significant power

structures and communication towers or facilities.

3. Director's recommendation. The director's recommendation concerning the proposed use shall be rendered in writing to the planning commission within 30 days unless an extension is granted by the planning commission. The director's recommendation shall state the zone classification in which the proposed use should be permitted as well as the findings which established that such use is of the same character and intensity of uses permitted in that zone classification.

4. Planning commission determination and recommendation. Upon receipt of the director's recommendation, the planning commission shall review such recommendation and either approve it as submitted, approve it with modifications, or deny it. The planning commission's decision thereupon shall be forwarded to the city council as a recommendation for or against (as appropriate) inclusion of such new use as a permitted or a conditional use in one or more zones under this title.

5. Effect of determination. A use approved by the city council for a zoning district based on the foregoing compatibility standards shall thereafter become a permitted or conditional use (as designated by the city council following recommendation by the planning commission) for that zoning district, and shall have the same status as a permitted or conditional use, as applicable, specifically named in the regulations for the zone classification in question.

C. Special events and temporary sales.

1. The ~~director~~ Director, or their designee may issue a temporary use permit for a temporary sale, special events, or other amusement enterprise of a similar nature, transient in nature, or

Christmas tree sales, providing he shall find that the use will not conflict with the uses in the neighborhood and/or zoning of the subject property. To determine the compatibility of uses, the director may call a public hearing. Request for such permit shall be submitted in writing. Special event permits shall be limited to one per property at any one location for any one time.

2. In issuing a permit, the director may:

(a) Stipulate the length of time the permit may remain valid;

(b) Stipulate the hours of operation of the use; and

(c) Stipulate other regulations which are necessary for the public welfare.

D. Home day care preschool, small. "Home day care/preschool, small" means the keeping for care and/or preschool instruction of six or fewer children including the caregiver's own children under the age of six and under and not yet in full day school within an occupied dwelling and yard. A home day care/preschool, small is exempt from the home occupation requirements of this code, but must meet all of the following standards:

1. There may be a maximum of six children on premises at any time, including the caregiver's own children under the age of six and not yet in full day school.

2. There shall be no employees that do not reside in the dwelling.

3. The home day care/preschool, small caregiver shall comply with all applicable licensing requirements under Title 5 of this code.

4. The use shall comply with all applicable noise regulations.

5. The play yard shall not be located in the front yard and only shall be used between 8:00 a.m. and 7:00 p.m.

6. The lot shall contain one available on-site parking space not required for use of the dwelling. The location of the parking shall be approved by the director to insure that the parking is functional and does not change the residential character of the lot.

7. No signs shall be allowed on the dwelling or lot except a nameplate sign.

8. The use shall comply with all local, state and federal laws and regulations.

9. Upon complaint that any of the requirements of this section or any other city ordinance are being violated by a home day care/preschool, or small caregiver, the city shall review the complaint and, if substantiated, may institute a license revocation proceeding under title 5 of this code.

10. All property owners within a 500 foot radius of the caregiver's property shall be mailed notice concerning the licensing of a home day care/preschool, small, at such property; provided, however, that provision of such notice shall not be a condition precedent to the legality of any such license, and no such license shall be deemed invalid or illegal because of any failure to mail any such notice.

E. Home day care/preschool. "Home day care/preschool" means the keeping for care and/or preschool instruction of 12 or fewer children including the caregiver's own children age six or under and not yet in full day school within an occupied dwelling and yard. A home day care/preschool may be approved by the planning commission if it meets all of the following standards:

1. There may be a maximum of 12 children on premises at any time, including the caregiver's own children under the age of six and not yet in full day school.

2. There shall be no more than one employee present at any one time who does not reside in the dwelling.

3. The home day care/preschool caregiver shall comply with all applicable licensing requirements under title 5 of this code.

4. The use shall comply with all applicable noise regulations.

5. The play yard shall not be located in the front yard and only shall be used between 8:00 a.m. and 7:00 p.m.

6. The lot shall contain one available on-site parking space not required for use of the dwelling, and an additional available on-site parking space not required for use of the dwelling for any employee not residing in the dwelling. The location of the parking shall be approved by the director to insure that the parking is functional and does not change the residential character of the lot.

7. No signs shall be allowed on the dwelling or lot except a nameplate sign.

8. The use shall comply with all local, state and federal laws and regulations.

9. Upon complaint that any of the requirements of this section or any other city ordinance are being violated by a home day care/preschool caregiver, the city shall review the complaint and, if substantiated, may

(a) Set a hearing before the planning commission to revoke any conditional use permit, and/or

(b) Institute a license revocation proceeding under title 5 of this code.

10. All property owners within a 500 foot radius of the caregiver's property shall be mailed notice of any hearing to grant or revoke any conditional use permit at least ten days prior to the date of the hearing; provided, however, that provision of such notice shall not be a condition precedent to the legality of any

such hearing, and no hearing or action taken thereon shall be deemed invalid or illegal because of any failure to mail any such notice.

F. Home occupations.

1. "Home occupation" means, (unless otherwise provided in this code) any use conducted entirely within a dwelling and carried on by one person residing in the dwelling unit and one additional person who may, or may not, reside in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling or property for residential purposes, and in connection with which there is no display nor stock in trade, "stock in trade" being any item offered for sale which was not produced on the premises.

2. The home occupation shall not include the sale of commodities except those produced on the premises; provided, however, that original or reproductions of works of art designed or created by the artist operating a home occupation may be stored and sold on the premises. "Reproduction of works of art" includes, but is not limited to printed reproduction, casting, and sound recordings.

3. The home occupation shall not involve the use of any accessory building, yard space or activity outside the main building if the use of accessory buildings or outside activity, for the purpose of carrying on a home occupation, violates the rule of the use being clearly incidental and secondary to the use of the dwelling or dwelling purposes.

4. The director shall determine whether additional parking, in addition to the two spaces required per dwelling unit, is required for a home occupation and shall also determine the number and

location of such additional parking spaces.

5. The director will review all home occupations for compliance with the above items. If the proposed home occupation cannot meet any one of the above items, the director shall not approve the home occupation.

F. Home occupation with clients

1. Home occupations with clients means any home occupation where one or more persons visit the premises to conduct business. A conditional use permit shall be required for any home occupation where clients are proposed to conduct business within the home.

2. Notwithstanding other provisions of this code, home occupations with clients shall not be approved where the proposed use is expressly prohibited by any section of the Municipal Code.

G. Residential facility for elderly persons.

1. "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that is occupied 24 hours a day in a family-type arrangement by eight or fewer elderly persons 60 years old or older capable of living independently.

2. Such facility shall be owned by one of the residents or by an immediate family member of one of the residents or the title has been placed in trust for a resident.

3. Placement in such facility is on a voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.

4. No person being treated for alcoholism or drug abuse may be placed in such a facility.

5. The structure shall be capable of use without the residential character

being changed by exterior structural or landscaping alterations.

6. Each facility shall not be located within three-quarters of a mile of another residential facility for elderly persons or residential facility for handicapped persons.

7. This use is nontransferable and terminates if the structure is devoted to a use other than a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

H. Car wash regulations.

1. Applicability and general purposes. Construction and operation of a car wash is subject to prior conditional use approval by the planning commission. The regulations in this section are intended to allow reasonable opportunities for car washes in the city, while:

(a) Reducing noise and adverse visual impacts on abutting uses, particularly residential uses;

(b) Ensuring adequate drainage;

(c) Promoting safer and more efficient on-site vehicular circulation;

(d) Promoting an aesthetically pleasing environment for car washes; and

(e) Assuring that car washes are located so that they are not the dominant land use in the city's primary commercial or gateway corridors.

2. Location and site.

(a) The lot proposed for a car wash shall be located in a zone that specifically allows a car wash as a conditional use or a permitted use.

(b) The lot proposed for a car wash shall contain at least 10,000 square feet.

(c) The lot proposed for a car wash shall front on, and have direct access to,

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an arterial or collector street (as designated by the city).

(d) The ingress or egress points of a car wash, or any driveway thereon, shall not be located so to impede the safe operation of any intersection, as determined by the city.

(e) No car wash shall be located on a corner lot.

3. Additional requirements.

(a) General.

(i) Any trash or service area of a car wash shall be fully screened from other properties and public streets.

(ii) To the extent practicable, wash bays shall be sited parallel to the adjacent street in such a way as to use the frontage efficiently and be oriented away from any abutting residentially zoned or used property.

(b) Access, circulation and on-site parking.

(i) Access points and driveways shall be planned and shared between properties to the greatest extent possible.

(ii) Sidewalks to accommodate pedestrian activity shall be provided. Pedestrian access shall be provided from the perimeter of the property to the car wash. Sidewalks in front of, or directly adjacent to, a car wash shall be at least four feet wide.

(iii) The circulation system shall provide continuous traffic flow with efficient, non-conflicting movement throughout the site. Conflicts between major pedestrian movement and vehicular circulation shall be minimized.

(iv) The planning commission shall specify the distance between any two curb cuts used for entrances or exits to a car wash on a case-by-case basis, provided that such distance shall not be less than 35 feet.

(v) If accessory vacuuming facilities are provided, a minimum of one parking

space shall be provided for each vehicle capable of being serviced at any one time at such vacuum facility. Parking spaces for accessory vacuuming facilities shall not interfere with circulation or entrance or exit drives.

(vi) In addition to parking requirements for employees and wash bays set forth in chapter 19.80, each wash bay of a car wash shall have the following vehicle stacking capacity for vehicles waiting to be serviced:

(1) Three stacking spaces for each bay in a self-service car wash; and

(2) six stacking spaces for each in-bay automatic or conveyor car wash.

(c) Building and equipment setbacks.

(i) A car wash shall be set back a minimum of 25 feet from the front property line.

(ii) Accessory equipment, such as vacuum facilities, shall be set back a minimum of 20 feet from any adjacent street.

(iii) Car washes shall meet the side and rear setbacks required by the underlying zone.

(d) Architectural design.

(i) A car wash shall maintain a consistent style and architectural theme. Architectural design, building materials, colors, forms, roof style and detailing should all work together to express a harmonious and consistent design.

(ii) 360 degree architectural treatment is required. Building design must incorporate variations in building height, building mass, roof forms and changes in wall planes so as to avoid large expanses of flat, uninterrupted building walls.

(iii) Building elements shall not function as signage. Incorporation of franchise or business design elements unique or symbolic of a particular

business shall be secondary to the overall architectural design. Bold, brash, intense, fluorescent or metallic accent colors shall be used in limited application such as in signage.

(iv) All car wash apparatus shall be enclosed or screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Screening may include: solid decorative brick walls, wood fences, earth berms, tight evergreen hedges which shall reach the necessary height within two years of planting, or a suitable combination of the above.

(e) Site furniture. Site furniture (such as bicycle racks, trash receptacles, and benches) is required to be incorporated in the design of a car wash, as specified by the city through the conditional use process. The style of the site furniture must complement the overall design of the principal building and be of high quality.

(f) Compatibility. All structures within the development shall be designed, constructed and permanently maintained in a planned, integrated, compatible and coordinated manner using the same or substantially identical:

(i) Exterior building materials and colors;

(ii) Architectural features and style; and

(iii) Lighting and lighting fixtures.

(g) Lighting requirements. In addition to general lighting requirements specified in chapters 19.76 and 19.80 of this code, the following specific lighting requirements shall apply to car washes:

(i) Lighting of car washes shall be adequate only to facilitate the activities taking place in such locations and shall not be used to attract attention to the business.

(ii) Full cut-off lighting is required.

(iii) Site lighting photometric plans are required.

(iv) The following lighting is prohibited on car wash sites:

(1) Exposed strip lighting used to illuminate building facades or outline buildings;

(2) Neon tubing; and

(3) Blinking or flashing lights.

(h) Landscaping requirements. All landscaping shall comply with the landscaping requirements of the underlying zoning and the conditional use approval for the car wash.

4. Operational requirements. The following operational requirements apply to all car washes:

(a) Water recycling.

(i) All car washes shall be required to be equipped with, and shall maintain in operation, a water recycling system that will recycle not less than 50% of the water being used by such car wash.

(ii) Any applicant for a car wash shall submit site plan for review to the applicable water and wastewater provider(s) to insure appropriate and safe provision, use and discharge of water, and shall provide the city with evidence of its submittal to and response/approval by the applicable water and wastewater providers.

(b) Hours of operation. Car washes shall not be open for business or otherwise in operation during the nighttime and early morning hours of 10:00 p.m. and 7:00 a.m. the following day.

I. Non-depository institutions. Non-depository institutions are permitted as a conditional use within the Regional Commercial (CR) zone, subject to the following restrictions:

1. A non-depository institution shall not be located within one mile of any

other non-depository institution inside the city's geographical boundaries. The distance shall be measured from the exterior walls of the building (or portions thereof) in which the non-depository institution is located or proposed to be located, and shall be measured as a straight and direct line distance from said point.

2. In addition to the geographical restriction under subsection 19.76.040(I)(1) above, the total number of non-depository institutions located within the city's geographical boundaries shall not exceed one non-depository institution per ten thousand residents of the city. A portion or fraction resulting from such a calculation that does not equal a whole number shall not increase, through "rounding" or otherwise, the total number of non-depository institutions possible under this section. For example, if the city's population was 39,999, then a maximum of three non-depository institutions would be possible in the city, and a fourth non-depository institution would not be possible until the city's population was 40,000 or more. For purposes of such calculation, the city's population shall be determined by the figures provided by the United States Census Bureau's most recent annual estimate.

3. All non-depository institutions are subject to all applicable architectural, design, aesthetic and other regulations of all applicable zones, overlay zones, and other requirements of this title. In addition, all non-depository institutions are subject to the following supplemental regulations:

(a) The color of the building housing the non-depository institution shall be restricted to earth tones or shall match

the city-approved design theme of the development of which it is a part.

(b) At least 25% of the first floor façade that faces a public street or sidewalk shall be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level.

(c) The use of bars, chains, or similar security devices that are visible from a public street or sidewalk is prohibited.

(d) The use of neon lighting shall be prohibited on the building exterior.

(e) All signage associated with any non-depository institution shall conform to the requirements of chapter 19.82 of this title.

19.76.050 Miscellaneous.

A. Appeal of planning commission decision.

1. Any person adversely affected by a decision of the planning commission regarding the issuance, denial or revocation or amendment of a conditional use permit may appeal such decision to the board of adjustment, whose decision shall then be final. All appeals by persons adversely affected by a decision of the planning commission must be submitted to the board of adjustment in writing and filed with the department within 30 days after the date of the decision. The decision of the board of adjustment may be appealed by any person adversely affected by the decision to the District Court, provided that such appeal is filed with the District Court, with a copy to the director, within 30 days after the decision of the board of adjustment.

2. For more information regarding planning commission decisions, see chapter 19.84 of this title.

B. Intersecting streets and clear

visibility. In all zones, no obstruction to view in excess of three feet in height shall be placed on any corner lot within a triangular area formed by public or private street property lines and a line connecting them at points 30 feet from the intersection of the street lines, except a reasonable number of trees pruned high enough to permit unobstructed vision to automobile drivers.

C. Off-site improvements.

1. Off-site improvements required.

The applicant for a building or conditional use permit for all dwellings, commercial or industrial uses, and all other business and public and quasi-public uses shall provide curb, gutter, sidewalk and asphalt along the entire property line which abuts any public road or street in cases where it does not exist at city standards. Vehicular entrances to the property shall be provided as allowed in this code. Height, location, structural specifications, maximum and minimum cut radii and minimum roadway approach angles to the centerline of the street are subject to the approval of the agency concerned.

2. Fee-in-lieu of improvements.

(a) Where conditions exist which make it unfeasible or impractical to install such curb, gutter and sidewalk, the planning commission may require the applicant to pay to the city a fee equal to the estimated cost of such improvements, as determined by the director. Upon payment of such fee by the developer, the city shall assume the responsibility for future installation of such improvements.

(b) The fees shall be placed in a special account, and shall credit to such account a proportioned share of interest earned from investment of city monies. Records relating to identification of properties for which fees have been collected, fee amounts collected for such

properties, and money transfer requests shall be the responsibility of the department.

D. Water and sewage facilities. In all cases where a proposed building or proposed use will involve the use of sewage facilities, and a sewer, as defined in the health department regulations, is not available within 300 feet of property where the building or use is proposed, and all cases where a proposed supply of piped water under pressure is not available within 300 feet of property where the building or use is proposed,, the alternative sewage disposal and the domestic water supply shall comply with requirements of the health department, and the application for a building permit shall be accompanied by a certificate of approval from the health department.

E. Fences and Walls.

1. No fence, wall or hedge shall be erected to a height which exceeds four feet in the required front yard and six feet in the side yards and/or rear yard. Fencing to a maximum height of eight feet may be allowed for side and/or rear yards as a conditional use upon a clear and convincing showing by the property owner:

(a) Of unique or special circumstances of a material, adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and

(b) That erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.

2. Chain link fences. Except in

private home applications, chain link fences, which are not vinyl coated, shall not be allowed.

3. Estate lots.

(a) Where a lot is at least one acre in size and has only one primary residence, no fence, wall or hedge shall be erected to a height which exceeds six feet in the required front yard and six feet in the side yards and/or rear yard, as a permitted use. Fencing to a maximum height of eight feet may be allowed for side and/or rear yards as a conditional use upon a clear and convincing showing by the property owner:

(i) Of unique or special circumstances of a material, adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and

(ii) That erection of such a fence is the most reasonable solution under the circumstances.

(b) Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.

4. Walls. Walls for decorative or earth retaining purposes shall be treated generally like fences as considered herein, except that walls shall be considered to be in one of the following categories:

(a) Required. A required wall is one that has been required by the city engineer for retention of earth or other purpose deemed necessary for safety, utility, infrastructure planning or other purpose. A required wall may exceed maximum height limitations, including any safety barrier(s) or fencing as may

be required by the current applicable building code(s).

(b) Non-Required. A wall that is not required by the city engineer may be constructed for decorative, retention or other purposes, subject to the following:

(i) Height. Height for any single non-required wall shall be subject to the provisions of Chapter 19.76.050 (E)(1). If multiple walls are used, walls must be separated as outlined in (ii) and the cumulative height for all non-required walls shall not exceed twelve (12) feet from original grade. Original grade means the grade of the property prior to any site work being done.

(ii) Wall Separation. Multiple non-required walls shall be separated by a minimum of three (3) feet.

(iii) Construction. Non-required walls shall be engineered and wall details provided and approved by the city engineer prior to construction.

F. Regulations regarding junk.

1. "Junk" means any salvaged or scrap copper, brass, iron, steel, metal, rope, rags, batteries, paper, wood, trash, plastic, rubber, tires and waste, or other articles or materials commonly designated as junk. Junk, except as provided in subsections (2) or (3), shall also mean any dismantled, wrecked or inoperable motor vehicles or parts thereof which are stored or parked on property outside of an enclosed building and which remain in such condition for a period of time in excess of 60 days. An automobile, truck or bus shall be considered inoperable if it is not currently registered and licensed in this state or another state.

2. One truck with a capacity of one ton or less or automobile which is not currently licensed and registered in this state or another state but is otherwise

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operable may be stored on property for a period not to exceed one year if it is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged exposing jagged metal; or

3. One truck with a capacity of one ton or less or automobile which is inoperable may be stored in a side yard, except a side yard which faces on a street or a rear yard on property for a period not to exceed one year provided:

(a) The automobile or truck is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged exposing jagged metal;

(b) The automobile or truck shall not be visible from any public street; and

(c) The automobile or truck is entirely concealed by a covering which is maintained in good condition and which does not extend closer to the ground than the lowest point of the vehicle body.

4. All existing legal nonconforming motor vehicles as of the effective date of the ordinance codified in this section, or any amendment hereto, shall comply with the provisions of this section within one year from the date of the enactment of this section or any amendment thereto.

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