

CLERK'S OFFICE  
**AMENDED AND APPROVED**  
Date: 12-11-07

Submitted by:

Prepared by:  
For reading

Chair of the Assembly at  
the request of the Mayor  
Planning Department  
November 13, 2007

ANCHORAGE, ALASKA

AO 2007-156

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.40, AND 21.50 REGARDING CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS, AMENDING THE B-3 (GENERAL BUSINESS) ZONING DISTRICT, AND AMENDING CONDITIONAL USE STANDARDS REGARDING CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS.

THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** Anchorage Municipal Code section 21.40.180 is hereby amended to read as follows (*the remainder of the section is not affected and therefore is not set out*):

**21.40.180**      **B-3 general business district.**

\*\*\*      \*\*\*      \*\*\*

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

\*\*\*      \*\*\*      \*\*\*

11. Correctional community residential centers, not to exceed thirty residents.

\*\*\*      \*\*\*      \*\*\*

(GAAB 21.05.050.M; AO No. 77-355; AO No. 78-28; AO No. 80-57; AO No. 80-132; AO No. 81-67(S); AO No. 83-209; AO No. 85-18; AO No. 85-91, 10-1-85; AO No. 85-173, 3-17-86; AO No. 86-90; AO No. 86-182; AO No. 87-32; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-26; AO No. 92-114; AO No. 95-68(S-1), § 9, 8-8-95; AO No. 96-107, § 1, 7-30-96; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 7, 12-8-98; AO No. 99-62, § 22, 5-11-99; AO No. 2001-80, § 6, 5-8-01; AO No. 2004-108(S), § 3, 10-26-04; AO No. 2005-185(S), § 21, 2-28-06; AO No. 2005-124(S-1A), § 24, 4-18-06)

**Section 2.** Anchorage Municipal Code section 21.45.080 is hereby amended to read as follows *(the remainder of the section is not affected and therefore is not set out)*:

**21.50.035**      **Standards for correctional community residential centers.**

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[B.      CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS IN THE B-1B, B-3 AND B-4 ZONING DISTRICTS MAY HOUSE ONLY RESIDENTS CONVICTED OF MISDEMEANORS.]

B[C]. No new correctional community residential center may be located within one thousand two hundred fifty feet [ONE MILE] of the lot line of an existing center or a school or park, unless the Planning and Zoning Commission determines that a further reduction in separation distance is warranted based upon the program proposed and any other circumstances the Commission deems appropriate. If the Commission reduces the separation distance, it shall adopt findings of the facts upon which such reduction is based. Measurement shall be made from the nearest property line of an existing center to the property line of the site proposed for a new center.

C[D]. Program occupancy limits shall be as determined by the state department of corrections.

D[E]. The land use standard to establish maximum resident occupancy at a center is a minimum of 150 square feet of building area per resident, calculated by including all bedroom, kitchen, bathroom, living, recreation and other areas within the facility intended for common use by the residents.

E[F]. A center shall provide one off-street parking space per each full-time staff member, based on the maximum anticipated staffing.

F[G]. Correctional community residential centers structured on the apartment living concept shall adhere to the residential dwelling unit density, minimum lot, minimum yard, maximum lot coverage, and maximum building height provisions of the zoning district in which they are located.

G[H]. Refuse containers and facilities shall be enclosed as required by the supplementary district regulations.

H[I]. Landscaping requirements shall conform to those of the underlying zoning district.

1           **I.       Correctional Community Residential Centers shall not house sex**  
2           **offenders.**

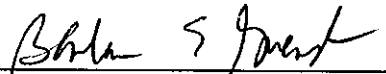
3  
4  
5           (AO No. 95-68(S-1), § 12, 8-8-95)

6  
7       **Section 3.**     This ordinance shall be effective immediately upon its passage and  
8       approval by the Assembly.

9  
10       PASSED AND APPROVED by the Anchorage Assembly this 11<sup>th</sup> day of  
11       December, 2007.

12  
13  
14  
15  
16       ATTEST:

  
Chairman

  
Municipal Clerk

**MUNICIPALITY OF ANCHORAGE**  
**Summary of Economic Effects -- General Government**

AO Number: 2007-156

Title: Planning and Zoning Commission, Case 2007-094;  
recommendation of approval for an ordinance change of AMC  
21.40 and 21.50 regarding conditional use standards for  
correctional community residential centers.

Sponsor:

Preparing Agency: Planning Department

Others Impacted:

<b>CHANGES IN EXPENDITURES AND REVENUES:</b>		<b>(In Thousands of Dollars)</b>			
	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	
<b>Operating Expenditures</b>					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
<b>TOTAL DIRECT COSTS:</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
<b>FUNCTION COST:</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	
<b>REVENUES:</b>					
<b>CAPITAL:</b>					
<b>POSITIONS: FT/PT and Temp</b>					

**PUBLIC SECTOR ECONOMIC EFFECTS:**

Approval of this ordinance should have no significant impact on the public sector.

**PRIVATE SECTOR ECONOMIC EFFECTS:**

Approval of this ordinance should have no significant economic impact on the private sector. The ordinance will amend locational criteria for correctional community residential centers to reduce distance between centers while requiring separation of new said uses from parks and schools.

Prepared by:	<u>Jerry Weaver Jr.</u>	Telephone:	<u></u>
Validated by OMB:	<u></u>	Date:	<u></u>
Approved by:	<u></u> (Director, Preparing Agency)	Date:	<u></u>
Concurred by:	<u></u> (Director, Impacted Agency)	Date:	<u></u>
Approved by:	<u></u> (Municipal Manager)	Date:	<u></u>





## MUNICIPALITY OF ANCHORAGE ASSEMBLY MEMORANDUM

No. AM 693-2007

Meeting Date: November 13, 2007

**From:** Mayor

**Subject:** Planning and Zoning Commission recommendation for ordinance amendments to Anchorage Municipal Code Section Chapters 21.40, and 21.50 regarding correctional community residential centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding correctional community residential centers.

1 In 1995, the Municipal Assembly approved an ordinance regarding community  
2 correctional residential centers, commonly referred to as CCRCs. At that time, there was  
3 concern relating to felons being housed in and near residential neighborhoods.  
4

5 The proposed ordinance continues to regulate the number of CCRCs locating in the  
6 Downtown area by not allowing any new CCRCs there, and provides a method to ensure  
7 that the facilities are spread throughout the Municipality instead of centering them in only  
8 certain neighborhoods, and reduces the separation distance from one mile between these  
9 facilities to one thousand two hundred fifty feet. All CCRCs continue to be limited by  
10 conditional use only, and are only allowed in the commercial, industrial and public lands  
11 and institutions zoning districts.  
12

13 Since the original adoption of the CCRCs ordinance in 1995, it is apparent that these  
14 facilities are, for the most part, not so-called half-way houses, but instead are  
15 rehabilitative facilities that serve as an alternative to jail for those clients who qualify for  
16 the program. These programs are highly structured and have strict security. They require  
17 a conditional use approval from the Planning and Zoning Commission, and the programs  
18 are regulated and licensed by the State of Alaska.  
19

20 There has been significant discussion in the past several years regarding the issue of  
21 locational criteria for these facilities. They require close proximity to urban services such  
22 as hospitals, rehabilitation programs and social services. However, the current one-mile  
23 separation requirements, especially coupled with the prohibition on housing felons in the  
24 B-3 district, create significant problems in locating new facilities in Anchorage. Instead  
25 of being able to locate the facilities in the higher density urban areas, it restricts them  
26 from being near needed services.  
27

28 In reviewing the issues related to the use itself, and to the concern of separation distance,  
29 it is determined that the most significant concern is the density of residents in the

1 facilities in general, as opposed to the numbers of facilities themselves. There are no  
2 other land uses which require a separation distance between from the same use. The only  
3 other significant separation requirement in the code is for premises where children are not  
4 allowed, 1000 feet (AMC 21.45.240). The CCRCs will be managed through density, and  
5 those residential uses with a program associated, are further regulated through  
6 programmatic requirements, and any buffering as determined by the Commission on a  
7 case-by-case basis.

8  
9 Based upon the research of the Department, the Commission recommends that the  
10 separation distance between CCRCs be amended to either 1,250 feet, or as determined  
11 appropriate by the Commission on an individual application basis. Also, a separation  
12 distance requirement between new CCRCs and school or park grounds of the same  
13 distance should be required. Maximum density requirement for the facility should be  
14 also set in the B-3 district at a density to not exceed thirty residents. Also, as convicted  
15 felons who are on probation, or without parole restrictions can live anywhere of their  
16 choosing, they should not be further restricted when they are a part of a rehabilitation  
17 program.

18  
19 The Commission finds that this amendment will provide for the proper location of CCRC  
20 facilities on a case-by-case basis as appropriate, while maintaining intended restrictions  
21 on density.

22  
23 THE ADMINISTRATION RECOMMENDS ADOPTION OF THE PROPOSED  
24 ORDINANCE AS WRITTEN.

25  
26 Prepared by: Jerry T. Weaver Jr., Zoning Administrator, Planning Department

27 Concur: Tom Nelson, Director, Planning Department

28 Concur: Mary Jane Michaels, Director, Office of Economic  
29 and Community Development

30 Concur: James N. Reeves, Municipal Attorney

31 Concur: Denis C. LeBlanc, Municipal Manager

32 Respectfully submitted, Mark Begich, Mayor

**Content Information****Content ID :** 005637**Type:** Ordinance - AO

**Title:** Planning and Zoning Commission recommendation for ordinance amendments to Anchorage Municipal Code Section Chapters 21.40, and 21.50 regarding correctional community residential centers, amending the B-3 (General Business) zoning district, and amending co

**Author:** weaverjt**Initiating Dept:** Planning

**Description:** Planning and Zoning Commission recommendation for ordinance amendments regarding correctional community residential centers

**Date Prepared:** 10/25/07 11:34 AM

**Director Name:** Tom Nelson

**Mayor Review?:** No

**Assembly Meeting Date:** 11/13/07

**Public Hearing Date:** 11/27/07

16.0.2  
 2007 NOV -5 AM 10:53  
 CLEANS OFFICE

**Workflow History**

<b>Workflow Name</b>	<b>Action Date</b>	<b>Action</b>	<b>User</b>	<b>Security Group</b>	<b>Content ID</b>
AllOrdinanceWorkflow	10/25/07 11:40 AM	Checkin	weaverjt	Public	005637
Planning_SubWorkflow	10/25/07 1:23 PM	Approve	nelsontp	Public	005637
ECD_SubWorkflow	10/25/07 1:37 PM	Approve	thomasm	Public	005637
OMB_SubWorkflow	10/31/07 10:55 AM	Approve	mitsonjl	Public	005637
Legal_SubWorkflow	11/1/07 1:11 PM	Approve	gatesdt	Public	005637
MuniManager_SubWorkflow	11/2/07 4:04 PM	Approve	leblancdc	Public	005637
MuniMgrCoord_SubWorkflow	11/2/07 4:48 PM	Approve	maglaquijp	Public	005637

**MUNICIPALITY OF ANCHORAGE**  
**PLANNING AND ZONING COMMISSION RESOLUTION NO. 2007-071**

A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDMENT TO THE ANCHORAGE MUNICIPAL CODE TITLE 21 SECTIONS 21.40 AND 21.50.035, REGARDING CONDITIONAL USE STANDARDS FOR CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS.

(Case 2007-094)

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WHEREAS, the Planning Department has submitted a draft ordinance which proposes amendments to Anchorage Municipal Code 21.40 and 21.50.035 regarding conditional use standards for correctional community residential centers, and,

WHEREAS, a public hearing was held on July 9, 2007, the ordinance was denied, and a motion for reconsideration was spread that evening, and

WHEREAS, the Commission voted to reconsider on July 16, 2007, as there was considerable discussion by the public and the Commission regarding standards in other communities, concerns regarding felons residing in these facilities, location of facilities in relationship to other land uses, and

WHEREAS, the Commission directed staff to respond to these issues and the ordinance was reconsidered on October 8, 2007

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Planning and Zoning Commission that:

A. The Commission makes the following findings of fact:

1. The use category as codified regulates the number of correctional community residential centers (CCRC's) locating in the Downtown area by not allowing any new CCRC's there, and to create a method to ensure that the facilities were spread throughout the Municipality instead of centering them in only certain neighborhoods by requiring a separation distance of one mile between said facilities. All CCRC's are allowed by conditional use only, and are only allowed in the commercial, industrial and public lands and institutions zoning districts.
2. There has been significant discussion in the past several years regarding the issue of locational criteria for these facilities. They require close proximity to urban services such as hospitals, rehabilitation programs and social services. However, the current one-mile separation requirements, especially coupled with the prohibition on housing felons in the B-3 district, creates significant problems in locating new facilities in Anchorage. Instead of being able to locate the facilities in the higher density urban areas, it restricts them now to areas well away from said services.
3. In reviewing the issues related to the use itself, and to the concern of separation distance, it has been determined that the real concern is the

number of residents of the facilities in total within a neighborhood as opposed to the numbers of facilities themselves. There are no other land uses which require a separation distance between the same use. Instead, residential uses are managed through density, and those residential uses with a program associated are further regulated through programmatic requirements and any buffering as determined by the Commission on a case-by-case basis.

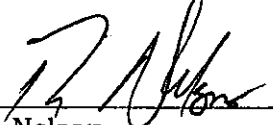
4. Based upon the Department's research, the Department recommended that the separation distance between CCRC's be amended to either 1,000 feet, or as determined appropriate by the Commission on an individual application basis. At the same time, a maximum number of residents for the facility should be also set in the B-3 district at a density to not exceed 30 residents. Also, as convicted felons who are on probation or without parole restrictions can live anywhere of their choosing, they should not be further restricted when a part of a rehabilitation program.
5. On July 9, 2007, this ordinance regarding Community Correctional Residential Centers (CCRC) was reviewed by the Commission, and the Commission recommended denial. At the end of the meeting, notice of reconsideration was spread. At the next hearing on July 16, 2007, the Commission voted to reconsider the ordinance on October 8, 2007. The Commission directed staff to evaluate the questions of whether the ordinance is consistent with other ordinances of like type in the nation and the issue of distance separation.
6. Based upon the Department's research, the Department recommended that the separation distance between CCRC's be no less than 1,000 feet, and including a provision for the same separation distance between any new CCRC and parks or school grounds. At the same time, a maximum number of residents per facility should be also set in the B-3 district, at 30 residents. Also, as convicted felons who are on probation or without parole restrictions can live anywhere of their choosing within limitations of sentencing restrictions, they should not be further restricted when a part of a rehabilitation program that meets the community's separation standards. The Department finds that this amendment will provide for the siting of CCRC facilities on a case-by-case basis as appropriate, while maintaining intended restrictions on density. No changes to the restrictions against new facilities in the Downtown area are proposed.
7. During reconsideration, the Commission amended the proposed conditional use standards regarding Correctional Community Residential Centers, amending item C to delete "1,000 feet" and insert "1,250 feet" for separation between said facilities.
8. The Commission noted that it was originally concerned about this ordinance because it did not seem to have a great deal of community involvement and this has historically been a community concern. The Commission wished to ensure there was a comprehensive look at the ordinance.


9. The Commission finds that there are a number of good arguments why the code should be amended, and that the Department had provided further information in the request to compare the ordinance to other jurisdictions.
10. The Commission finds this to be a proper change to the existing ordinance. The separation distance change is appropriate as there have been problems in actually siting these facilities as a result of the one-mile separation requirement. Rather than being able to locate the facilities in higher density urban areas, they have been restricted to areas away from services. It is important with facilities of this type to be proximate to services. The Commission further finds that there had been an adequate discussion of other aspects of this ordinance such as capping the number of individuals permitted in the facility to 30. The Commission further finds that it was also convinced by the Staff's argument that leaving the issue of placement of felons to the court is appropriate because it is beyond the scope of a land use issue.
11. Opposition finds that in other capacities opposition has seen how people are ordered into programs and it is a relatively simple thing to achieve, particularly if they are not repeat offenders. Although the court acts as a gatekeeper, it is not difficult to apply for credit for time served. Opposition further finds two things about the ordinance dramatically extreme. One is moving from misdemeanants in Anchorage to felons. There are some felons who are embezzlers and people may feel it is safer to live next to that individual. If more of these facilities are put into an area, more people are necessarily exposed. There is a statistical likelihood that people will be exposed to a more condensed population of convicted persons.
12. The Commission noted that when people are released into the community one might say it is safer to have them in a program that is helping to rehabilitate and supervise them than for them to be on their own. The Commission further noted that in the definition of CCRC it does say that a determination of whether a prisoner imposes a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement ...made by the Commissioner of Corrections for state prisoners and the U.S. Attorney General or the Director of the Bureau of Prisons for federal prisons." Between that definition and the separation of misdemeanants in certain zoning districts and misdemeanants and felons in others, the separation distance was proposed. The Assembly addressed violent and non-violent offenders when it last dealt with this ordinance by separating misdemeanants and felons.
13. The Commission recommended approval of the ordinance as amended, by a vote of 8-aye, 1-nay.
14. The Commission requested that Staff evaluate over the next 1.5-year period how this ordinance is operating with regard to the issue of felons and provide an assessment back to the Commission, and asked that the report be put on the calendar for a Director's meeting.

- B. The Commission recommends to the Anchorage Assembly approval of an amendment to the Anchorage Municipal Code 21.50.035 as proposed by the Department, regarding correctional community residential centers, with the following amendment:

"Amending item C to delete "1,000 feet" and insert "1,250 feet."

PASSED AND APPROVED by the Municipal Planning and Zoning Commission on the 8th day of October, 2007.

  
\_\_\_\_\_  
Tom Nelson  
Secretary

  
\_\_\_\_\_  
Toni M. Jones  
Chair

ac

AYE: Cotten, Josephson, Jones, Isham, Fredrick, Palmer, Phelps, Wang,  
Pease

NAY: None

PASSED

F. **REGULAR AGENDA** – None

G. **PUBLIC HEARINGS**

1. **2007-094** Municipality of Anchorage. An Ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.5 regarding Correctional Community Residential Centers, amending the B- (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers (CCRCs).

Staff member ANGELA CHAMBERS stated the ordinance was reviewed by the Commission on July 9, 2007 and the Commission recommended denial to the Assembly. A notice of reconsideration was spread and at the July 16, 2007 meeting the Commission voted to reconsider. This matter is before the Commission as a reconsideration. The Commission directed Staff to evaluate whether or not the ordinance is consistent with other ordinances of like type in the nation and the issue of distance separation between the same use and other uses. The research has shown that communities tend to regulate locations of this use in methods tailored specifically to their jurisdiction. A cross-section of the conservative to the more liberal is on page 27 of the packet. Staff has researched many types of ordinances over the years and has found that separation distances from the same use generally range from 600 to 2,000 feet. Those regulate the separation from the CCRC to any other use have regulated the distance from a school or residential zoning from 500 to 1,500 feet. Other jurisdictions review these items on a case-by-case basis through a public hearing process. The Department investigated the concerns of the public with regard to locational criteria for the housing of felons that are still under the jurisdictions of the courts. From research it appears that this issue is not normally regulated through zoning, but rather through individual state regulations governing correctional and other procedures. This is not an issue of zoning, but rather is an issue of the court system and the penal code. A total of 22 states regulate



where felons reside, but many are undergoing legal challenges. The Department finds that the issue of locational criteria for housing of felons is illegal and is best regulated through means other than zoning. The existing definition of CCRCs says the Department of Correction shall determine whether prisoners are a threat to society in determining their release to a CCRC. The Department has not changed its recommendation of a separation distance of 1,000 feet between CCRCs, which is consistent with other jurisdictions and other code provisions. The Department recommends adding an additional condition to separate new CCRCs by 1,000 feet from the lot line of a school or park.

COMMISSIONER JOSEPHSON understood that normally this is not the type of thing that would be regulated through zoning, but rather through statute. He understood this is presently being regulated. MS. CHAMBERS replied that the use of the land is being regulated, not the sentencing process or the placement and determination of safety factors related to releasing persons convicted of felonies or misdemeanors. COMMISSIONER JOSEPHSON understood the policy of separating CCRCs by one mile or more was put in place because the public and mayor thought that was warranted. MS. CHAMBERS explained the issue was density of uses in a particular area, particularly in the B-2 districts where the general intent was not for institutional uses of this nature as much as government and commercial business. COMMISSIONER JOSEPHSON asked if it is the Department's position that the regulation that separates CCRCs by one mile is not limited to CCRCs. MS. CHAMBERS replied that it is limited to CCRCs because of a rapidly increasing number of CCRCs in downtown at the time that ordinance was adopted. COMMISSIONER JOSEPHSON asked if it has not historically been the policy of the city to separate CCRCs by one mile. MS. CHAMBERS replied that when the Municipality was smaller, it was the policy to separate these uses by one mile in order to manage density. COMMISSIONER JOSEPHSON heard Staff to say there is an argument for change, but not that there has not been historical regulation that has governed this. MS. AUTOR stated the original ordinance came about because there was a concentration of existing halfway houses in the downtown and Fairview area. Additional requests were being made from those providers to expand those facilities at those locations and to build new ones in the downtown area. The objection that gave rise to the requirement for one-mile separation was intended to spread the type of use throughout the community and not to congregate them in one area of town.

MS. CHAMBERS stated the issue is not so much separating uses, but providing for them to be in more than one area in the city.

COMMISSIONER JOSEPHSON stated this ordinance does nothing to spread the concentrations of CCRCs. MS. CHAMBERS agreed that this is the case. She stated the city's zoning is not arranged into quadrants so that a ratio of zoning types can be spread throughout town. The Department has looked at densities and ratios and Staff have combed codes throughout the Lower 48 to see how this use is governed and while that goal is not abandoned, the Department feels these will be addressed best on a case-by-case basis and 1,000 feet of separation is realistic in terms of keeping the concentration problem that had been experienced in downtown and Fairview from repeating.

COMMISSIONER JOSEPHSON stated the packet seems to say that residents of CCRCs would not have future court dates. However, he understood that residents of CCRCs remain on probation and, if they violate probation, they would have a court date. He asked whether Staff has considered on the issue of jumping from allowing misdemeanants in CCRCs to allowing felons; for example, using the demarcation of AS 11.41, which deals with violent crime and sex offenders. MS. CHAMBERS replied that this was considered; she is a certified planner and has done significant research on this subject and she believes the types of crime that are categorized as felony, even within the category of sex offender, range widely. There are serious ongoing issues regarding regulations regarding where those who are and those who are not under court jurisdiction may live. The Department recommends that issues of concern with the proximity of felons to other residents be left to regulation other than the zoning. With the conditional use application each program will submit its program information. It is difficult to set a criterion on a local level through zoning on such a large and contentious social issue. Planners do not have the legal or other expertise to address this issue. This matter involves privacy and personal freedom rights. Each individual is subject to criteria set by the court based on their individual situation. This issue does not fall into the realm of land use. The Department has found no better way to address this issue. COMMISSIONER JOSEPHSON noted that the Point McKenzie Project was a land use issue. MS. CHAMBERS replied that it is a land use issue in regard to locating large institutional uses. This guidance comes first through the *Comprehensive Plan*, and then through zoning. Zoning has to do with form and function and how a particular use relates to abutting uses so that there is minimal impact on each. There

must be care in separating programmatic issues versus how the use relates on an external basis. Many communities have addressed institutional uses such as prisons to address incompatibilities. The Department does not believe a one-mile separation is needed, nor does it best serve the community or the individuals in these programs. The Department feels each program should be reviewed on an individual basis.

COMMISSIONER PEASE recognized that CCRCs are a necessary use, but asked if this is any different from regulating adult uses where the impact is the people coming and going rather than what occurs inside of a building. MS. CHAMBERS stated the Department is looking at a use that is of significant concern to the community. Adult uses are separated 1,000 feet from specified uses. That distance is higher than some communities require and lower than others. Prisons do not have separation distance requirements, but rather are dealt with on a case-by-case basis. Alcohol uses are regulated by the state and must be 200 feet from specified uses. The Department does not feel there is a realistic basis for a different separation distance for CCRCs than what is proposed.

COMMISSIONER ISHAM asked where CCRCs are allowed by conditional use. MS. CHAMBERS replied that CCRCs are allowed by conditional use in the B-1B, B-3, B-4, I-1 and PLI districts and no new CCRCs are allowed in the B-2A, B-2B and B-2C districts. COMMISSIONER ISHAM understood the change being proposed is that, if a CCRC is approved as a conditional use and there is more than 1,000 feet of separation, no discussion is necessary regarding separation. MS. CHAMBERS stated that each case would be reviewed individually. The Commission looks at a conditional use request on a site basis as well. No findings are necessary regarding separation if the distance is 1,000 feet or more.

COMMISSIONER PHELPS noted that there is a recommendation setting a maximum density for the facility shall in the B-3 district of not more than 30 residents, but he did not see that in the ordinance. MS. CHAMBERS replied that page 4, line 24, includes this requirement. The thinking behind this requirement is that density is more of a concern in the B-3 district, as is the case in residential areas. COMMISSIONER PHELPS asked why this density limitation is not being applied to commercial zones that are lower intensity, such as B-1B. MS. CHAMBERS noted there is very little B-1B available and the code would allow misdemeanants only in the B-1B. MR. NELSON

believed there are two areas zoned B-1B, one of which is at the corner of Jewel Lake and Dimond. COMMISSIONER PHELPS noted that separation distances found in research are between 600 feet and 2,000 feet and asked if 1,250 feet would be objectionable. MS. CHAMBERS explained that the Department tried to be as similar as possible with other zoning requirements; adult uses are required to have a 1,000-foot separation. That is the largest separation distance required in code at this time. The state uses 200 feet for beverage dispensary and package store licenses. The recommended 1,000 feet is also midline in terms of the research that has been conducted. COMMISSIONER PHELPS thought the imposition of 1,000 feet is related to a school or park and is intended to deal with sensitive uses. He asked about day cares, for example. MS. CHAMBERS replied that the location of childcare centers and day care homes is difficult to track. Many of those types of uses, as well as private schools, rely on parks for recreation, so parks were included in the ordinance. She noted that findings would be appropriate in cases where more than 1,000 feet of separation is felt to be necessary.

COMMISSIONER COTTEN thought this ordinance does not necessary discourage facilities of this nature in downtown and asked if there is a separate policy that discourages such facilities in downtown. MS. AUTOR stated the ordinance at the time of last amendment included language that the programs located in the downtown zones B-2A, B-2B and B-2C could not expand beyond their current operations.

COMMISSIONER PHELPS moved for approval of an ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers, amending item C to delete "1,000 feet" and insert "1,250 feet." COMMISSIONER ISHAM seconded.

COMMISSIONER PHELPS was originally concerned about this ordinance because it did not seem to have a great deal of community involvement and this has historically been a community concern. He wished to ensure there was a comprehensive look at the ordinance. He thought there were also a number of good arguments why the code should be amended. Staff has responded to his request to compare the ordinance to other jurisdictions. He believed this to be a proper change to the existing ordinance. The separation distance change is appropriate as there have been problems in actually siting these facilities as a result of the one-mile separation requirement. Rather than being able to locate the facilities in higher density urban areas, they

have been restricted to areas away from services. It is important with facilities of this type to be proximate to services. He felt there had been an adequate discussion of other aspects of this ordinance such as capping the number of individuals permitted in the facility to 30. He was also convinced by the Staff's argument that leaving the issue of placement of felons to the court is appropriate because it is beyond the scope of a land use issue.

COMMISSIONER JOSEPHSON did not support the motion. As a former prosecutor for the State, he has seen how people are ordered into programs and it is a relatively simple thing to achieve, particularly if they are not repeat offenders. Although the court acts as a gatekeeper, it is not difficult to apply for credit for time served. He found two things about the ordinance dramatically extreme. One is moving from misdemeanants in Anchorage to felons. There are some felons who are embezzlers and people may feel it is safer to live next to that individual. If more of these facilities are put into an area, more people are necessarily exposed. There is a statistical likelihood that people will be exposed to a more condensed population of convicted persons. He stated he comes from a family of lawyers, all of whom are defense attorneys, and he has also heard the argument that recidivists cannot be helped. Because of his public safety concern, he did not support the motion.

COMMISSIONER PEASE shared some of Commissioner Josephson's concerns, however, when people are released into the community one might say it is safer to have them in a program that is helping to rehabilitate and supervise them than for them to be on their own. She asked if it would be possible to consider limiting this to non-violent felons. MS. CHAMBERS stated in the definition of CCRC it does say that a determination of whether a prisoner imposes a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement ...made by the Commissioner of Corrections for state prisoners and the U.S. Attorney General or the Director of the Bureau of Prisons for federal prisons." Between that definition and the separation of misdemeanants in certain zoning districts and misdemeanants and felons in others, the separation distance was proposed. The Assembly addressed violent and non-violent offenders when it last dealt with this ordinance by separating misdemeanants and felons.

AYE: Cotten, Jones, Isham, Fredrick, Palmer, Phelps, Wang, Pease  
NAY: Josephson

PASSED

COMMISSIONER PHELPS requested that Staff evaluate over the next 1.5-year period how this ordinance is operating with regard to the issue of felons and provide an assessment back to the Commission. MS. CHAMBERS stated that a report could be provided after 18 months. CHAIR JONES asked that the report be put on the calendar for a Director's meeting.

2.     **2007-133**             Cook Inlet Tribal Council Inc. A conditional use to allow a Correctional Community Residential Center in the B-3 zoning district. Fairview Subdivision, Block 11, Lot 13A. Located at 4119 Mountain View Drive.

Staff member ANGELA CHAMBERS described the request before the Commission. Cook Inlet Tribal Council (CITC) proposes to develop a new residential, vocational, and educational facility for men who are facing challenges of addiction, homelessness, and/or re-entering society after incarceration. Chanlyut has been determined to be a correctional community residential center (CCRC), which is subject to the conditional use standards of AMC 21.050.035 in the B-3 zoning district where the facility is to be located. This is a new type of program that has been used very successfully in the Lower 48 and is expected to benefit the Municipality by providing a home and opportunity for hands-on experience in learning life skills and vocational training. The residents will be expected to become able to operate and oversee all aspects of the Chanlyut facility and the related vocational and other project activities. They propose to house up to 20 male residents at any one time and a resident manager. The Department has reviewed this request vis-à-vis the goals and policies of the *Comprehensive Plan* as well as the standards for a CCRC. The Department finds that the policies of the *Comprehensive Plan* have been met and recommends approval of the request. However, the program does note that the request cannot meet two of the current requirements for a CCRC: one, the existing one-mile separation requirement; and two, a prohibition on housing residents convicted of felonies. Those two items are addressed under the draft ordinance in case 2007-094 heard this evening. The Commission recommended reducing the separation to 1,250 feet and to allow felons, but there were findings in opposition as well. The Department has recommended adding conditions of approval addressing these two items because the Commission cannot act on a request when there are violations of other entitlements. The Department finds this is an appropriate and well-managed program. In this case, the Department finds a benefit to allowing flexibility to accept clients into the program at the determination of Chanlyut,

COMMISSIONER WANG stated he was not present at the July 9, 2007 meeting and had not had an opportunity to review the record in case 2007-094. VICE CHAIR ISHAM excused him from participation in case 2007-094.

COMMISSIONER COTTEN arrived at 6:34 p.m.

**2. Notice of Reconsideration**

- a.     **2007-094**     Municipality of Anchorage. An Ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers.

COMMISSIONER PHELPS moved to reconsider case 2007-094.  
COMMISSIONER ISHAM seconded.

AYE: Cotten, Fredrick, Jones, Isham, Phelps  
NAY: None  
ABSTAIN: Pease, Wang

PASSED

COMMISSIONER PHELPS noted that there was considerable discussion in case 2007-094 at the Commission's July 9, 2007 meeting regarding a particular facility and his concern was that a major section of the code was being amended in a way to accommodate that facility. He expounded that his concern was that action was to be taken on one aspect of the ordinance without considering other aspects of the ordinance. Amendments were being offered in consideration of this case that seemed to deal with the issue, but that were not entirely properly crafted and he felt that issues were not being adequately addressed. When the issue of distance requirement was discussed, it seemed that section of the ordinance would not seem to be effective in achieving the intent to separate commercial and residential uses. Most importantly, this is a fairly contentious issue and community councils felt they had insufficient time to deal with it. He did not feel comfortable acting on the ordinance at that time.

CHAIR JONES noted that the original motion to approve case 2007-094 is before the body.

COMMISSIONER PHELPS moved to postpone the motion to approve case 2007-094 to a date certain in order to evaluate the ordinance in a comprehensive way and to deal with the questions of whether the ordinance is consistent with other ordinances of like type in the nation and the issue of distance separation. COMMISSIONER ISHAM seconded.

Staff member ANGELA CHAMBERS asked to what date certain the matter would be postponed. COMMISSIONER PHELPS asked what length of time would be required to conduct the review he has requested. MS. CHAMBERS replied that the matter could be postponed to October 8, 2007.

COMMISSIONER PHELPS amended his motion to postpone to October 8, 2007. COMMISSIONER ISHAM concurred as the second.

CHAIR JONES clarified that this action, if approved, would postpone the motion to approve the ordinance, as it was before the Commission on July 9, 2007.

AYE: Cotten, Fredrick, Jones, Isham, Phelps

NAY: None

ABSTAIN: Pease, Wang

PASSED

CHAIR JONES asked that this matter be re-advertised and advertised in the newspaper.

#### **D. CONSENT AGENDA**

##### **1. Resolutions for Approval: 2007-038**

##### **3. Site/Landscape Plan Approval**

- a. 2007-105** Municipality of Anchorage. A non-public hearing public facility site plan review for 100th Avenue Improvements from Victor Road to Pointe Resolution Drive.
- b. 2007-107** Municipality of Anchorage. A non-public hearing public facility site plan review for 72nd Avenue from Lake Otis Parkway east



Family Residential) to R-3 (Multiple Family Residential). T13N, R3W, Section 33, Lots 45, 49A, 49B, 49C and 52, S.M., AK. Located at 2300 East 49th Ct. #200. Located at 2300 E. 49<sup>th</sup> Court

Staff member ANGELA CHAMBERS indicated the Commission would need to vote on the request to postpone as the matter has been advertised.

COMMISSIONER FREDRICK moved to postpone case 2007-087 to September 17, 2007. COMMISSIONER ISHAM seconded.

AYE: Cotten, Josephson, Jones, Isham, Fredrick, Palmer, Phelps  
NAY: None

PASSED

***POSTPONED TO SEPTEMBER 17, 2007***

2.     **2007-094**           Municipality of Anchorage. An Ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers.

Staff member ANGELA CHAMBERS noted that the Commission and Assembly have reviewed an assisted living facility ordinance in the past and there have been discussions regarding healthcare facilities in town. There has been significant discussion of locational criteria for Correctional Community Residential Centers (CCRCs), which are rehabilitative facilities that they serve as an alternative to jail for those clients who qualify, which may include misdemeanants and felons. Frequently these services require close proximity to urban services such as hospitals, other rehabilitation services/programs, and other social services. Currently there is a one-mile separation requirement between these facilities. This requirement, combined with the prohibition of housing felons in these facilities in the B-3 district, creates problems for locating new facilities in the Anchorage Bowl in

particular. These requirements currently restrict the placement of these facilities in areas removed from needed services. With the proposed ordinance, the Department recommends that the separation distance between CCRCs be amended to 1000 feet or as determined by the Commission on a case-by-case basis. The Commission would retain conditional use review authority to determine on a case-by-case basis if the use is appropriate for the particular site. The Department also proposes a maximum density for these facilities in the B-3 district of no more than 30 residents. Coupled with the 1000-foot separation, this would serve to regulate the location more by density. As convicted felons who are on probation or parole without restrictions are able to live in locations of their choosing, the Department finds that they should not be further restricted when participating in a rehabilitative program. The Department supports the ordinance as written.

COMMISSIONER JOSEPHSON asked for a recess in order to review additional material that was distributed this evening. CHAIR JONES granted this request.

<b>BREAK</b>
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COMMISSIONER ISHAM asked if there are currently limits on the number of residents in these facilities. MS. CHAMBERS replied that there is no such restriction in the zoning code, any more than on residential uses in general. These facilities are not allowed in residential districts or in commercial districts where residential is allowed. Programmatic requirements and licensing dictate the limits on the number of residents in a facility. COMMISSIONER ISHAM understood the proposal was to allow no more than 30 residents per facility. MS. CHAMBERS replied that the restrictions apply primarily to the B-3 district. There is minimal B-1 or B-4 property in town. COMMISSIONER ISHAM understood that the size of facility could vary, but the number of residents would be limited to 30.

COMMISSIONER JOSEPHSON asked if this proposal is being driven by individual concerns and could those be accommodated in some other way. MS. CHAMBERS replied that this has been an ongoing issue for many programs. The Department did not want to address this in the assisted living ordinance because it is a separate issue. The ordinance is not driven by particular groups or facilities.

The public hearing was opened.

PEGGY ROBINSON, president of the Northeast Community Council, indicated the Council has submitted a written resolution regarding this ordinance. When this was discussed at the Council's June 21<sup>st</sup> meeting it was a more substantial discussion than she had expected. She stated that although the Council receives notices of cases with sufficient time for a committee to form and discuss them, there was no Staff recommendation to provide background in this case. The Council's Title 21 chair spoke with Ms. Chambers about the ordinance and tried to relay some of that information. The Council realizes that there is need for rehabilitative facilities and understands the desire to not be restrictive so that more cannot be provided, but there are concerns that a large numbers of them not be congregated in one area of town. Decreasing the separation between facilities to 1000 feet was thought to be too much. The Council suggested a distance of perhaps one-half mile. There is also a concern with felons residing in the facilities and the Council suggested 10% as a limitation on the felon component of the overall facility population. People were concerned with sex offenders in facilities on B-3 property that could be close to residential land. The Council understands the need for some changes, but felt the current proposal goes too far. She noted that some other community councils do not meet in June and there may not have been a good venue for disseminating information and discussing issues that might directly affect residents in other councils.

LISA RIEGER, General Counsel and Vice President of Cook Inlet Tribal Council (CITC), voiced support for the ordinance before the Commission. She explained that CITC is a 24-year old organization that administers 42 programs serving 7,000 participants annually in the areas of education, job training, recovery services, and family services. The mission focuses on working in partnership with participants and to develop opportunities to fulfill their potential. The organization is driven by personal responsibility, accountability and transparency in its operations. Chanlyut is a new initiative. It is the Dena'ina Athabascan word for "new beginning" and will serve Anchorage's most vulnerable and marginalized population of all ethnicities, men only, no sex offenders, and will be capped at 20 residents. This program is about personal responsibility. This project is based on the Delancey Street Foundation, which is a successful program with a track record in several states. Over 70% of Delancey Street graduates successfully lead productive, crime-free life compared to the 30% who leave prison. This program does not cost the taxpayer or clients. A strong principle of Delancey Street is to not use government funding. Revenue for Chanlyut will be generated through micro enterprises, which are training schools for the participants. These enterprises will also contribute to the community by bringing more enterprise. The program has highly structured days with an emphasis on education and self-improvement. There is a minimum two-year

commitment during which time at least three marketable skills and a strong work ethic are taught. The program is considering a location on B-3 property in Mountain View. This is an ideal location for the clients and the community. There has been strong, long-standing community support and CITC has been working with the Mountain View Community Council for some time. Under the current ordinance the program cannot operate as a CCRC because of the distance requirements from similar facilities. The Department recommended that these types of limited size programs be allowed in the B-3 district. The requested amendment to the separation distance reduces density to allow placement of felons judged not to be a danger to the community into the program. These amendments will provide a better selection of programs with a proven track record for the courts and Corrections to consider in the reformation and rehabilitation of offenders. This program will succeed where others have failed.

COMMISSIONER ISHAM asked if this facility would take a maximum of 20 people and no sex offenders. MS. RIEGER replied that the program would accept a maximum of 20 people, no sex offenders and no arsonists. COMMISSIONER ISHAM understood there is another CCRC within one mile. MS. RIEGER replied that D'eana A Coy is just short of one mile.

COMMISSIONER COTTEN asked the proximity of the residential neighborhood to the B-3 property where Chanlyut would locate. MS. RIEGER replied that it is across the alley.

COMMISSIONER PALMER understood the residents of Chanlyut would include felons judged not to be a danger to society and asked who determines that. MS. RIEGER replied that this determination is by the Department of Corrections. COMMISSIONER PALMER noted the ordinance change proposes up to 30 residents and Chanlyut takes 20. The ordinance does not say anything about sex offenders, but Chanlyut will not take sex offenders. There is no discussion about proximity to schools. COMMISSIONER PALMER asked what distance a facility like this should be located from a school. MS. RIEGER believed the current ordinance deals with sex offenders at CCRCs. She was uncertain what is the recommendation of the Department regarding distance from schools.

COMMISSIONER COTTEN asked if Staff is aware of similar programs or centers to be established within Anchorage in the next 6 to 18 months and, if so, what are the aspects of those. MS. CHAMBERS indicated this is difficult for Staff to gauge. There have been discussions with organizations over the years and many would like to propose facilities. The Commission would judge each on a case-by-case basis and there is no guarantee of approval. She noted

that the Commission has denied conditional use requests in the past. Each program may be different in terms of criteria and requirements, but each CCRC provides its guidelines to the Commission during the conditional use review. In terms of sex offenders, she noted that there are many felons with a variety of convictions in their backgrounds that currently live throughout various areas of town. She noted that each program is tied to its programmatic requirements.

COMMISSIONER JOSEPHSON asked if the Commission would see Chanlyut. MS. CHAMBERS replied that any application for a conditional use would have to come to the Commission for approval; that does not guarantee the Commission will approve it. This type of use requires a conditional use permit because it may or may not be appropriate in a particular district and under particular circumstances. She stated the Commission would review Chanlyut. COMMISSIONER JOSEPHSON referred to the Northeast Community Council's comment regarding concentration and noted that when he purchased a home some years ago he reviewed the sex offender registry and found that most live in north/northeast Anchorage. He thought this ordinance provides an opportunity to de-concentrate these populations so that the more affluent areas of town bear some responsibility for these facilities. MS. CHAMBERS responded that there are no legal restrictions except for probationary requirements on where convicted sex offenders can live. Part of the concern when this ordinance was created was clustering of these facilities in downtown. At that time, those facilities were halfway houses. This facility would be considered rehabilitative if not for the correctional nature of some of the clientele. Prohibiting certain types of felons would not prevent clustering in any part of town, but would prevent them from getting the type of rehabilitation the courts deem are appropriate. She thought that imposing more restrictions could be seen as restricting these individuals from living in certain parts of town rather than addressing over-concentration of facilities in a certain part of town. She suggested that the Commission be cautious and understand intent in dealing with these type of issues.

HUGH WADE, President of the Mountain View Community Council, spoke in support of Chanlyut's efforts. He stated the Council has been involved in the process of this facility from the beginning and a good partnership has been formed with CITC. The Council has written letters of support and has met with people from the Lower 48. He stated that Mountain View has clustering of facilities and Mountain View welcomes organizations that have a mission of people getting better. He stated that the worry is with people who are not in CCRCs, not the residents of CCRCs who are turning their lives around and making sacrifices to do it. He stated that these individuals

become involved in the community. He stated he personally supports the ordinance amendment. He added that in addition to Chanlyut, the community has Homeward Bound that has operated for 10 years and serves alcoholic individuals who are moving from the streets to independent living.

COMMISSIONER PHELPS understood that the Mountain View community might accept another facility in addition to Chanlyut. MR. WADE replied in the affirmative. He stated that the community is proud to welcome more facilities of this type and supports other communities welcoming them as well. COMMISSIONER PHELPS asked whether Mr. Wade supports a 1000-foot separation between similar facilities. MR. WADE felt that separation was adequate. He stated Mountain View is comprised of high density residential that abuts a commercial district. The issue is not distance between facilities; the problem in Mountain View is that it is a neighborhood of last resort. He stated he does not worry about these types of programs, but rather about the sex offenders who live throughout the area. COMMISSIONER PHELPS asked if this type of facility could work in a residential area. MR. WADE replied in the affirmative.

COMMISSIONER ISHAM asked if the Council voted to support this ordinance amendment. MR. WADE replied that the Council is on summer break and did not have a meeting in July. However, the Executive Board discussed this ordinance and the members instructed him to voice support at this meeting. He and other Council members have participated in the process involving in Chanlyut.

BARBARA GARNER, University Area Community Council board member, stated she had intended to condense the written comments that were sent to the Commission. She stated the Council realizes the importance of and need for these programs, but the question is if these people are at the end of their time in prison and being placed in CCRCs to continue serving their time. She questioned how they could be in a CCRC program if they are on probation or parole. Public safety is of primary concern. The Council is concerned with allowing these facilities in B-3 because the University Area Community Council has a great deal of B-3, particularly along Lake Otis Parkway and Tudor Road. The Rescue Mission is located in this area. The Rescue Mission has been running a program in the former Tupperware building that the Council feels is illegal that has been ongoing for two years. This is less than one mile from the Ernie Turner CCRC located at Tudor Road and Bragaw Road. There is concern that this ordinance would permit both the Rescue Mission and the other program. The Mayor has been apparently working to relocate the Rescue Mission, however, the Community Council is not involved in that process. The Council is trying hard to understand what is going on

with that effort, but it is difficult for this residential neighborhood, which is now called the U-Med Gateway neighborhood. This area supports students of the university, faculty at the university and medical workers who live in the area and walk to work. Their safety needs to be protected. She asked that the Commission's decision be postponed and the matter be returned to the Mayor for further development.

COMMISSIONER PALMER asked if the issue of the Rescue Mission is separate from the matter before the Commission. MS. GARNER replied that there is a program in the Tupperware building that is within one mile of the Ernie Turner Center.

MS. GARNER submitted a memorandum from the Airport Heights Community Council requesting a postponement of this action.

TIM POTTER stated that when halfway houses were robust and making money, they were cropping up in the downtown area. The action by the Assembly to adopt the current ordinance was an almost emergency measure to try to shut that down. Part of the discussion was that if it is good for downtown, it is good for the rest of the city and the locations of these facilities should be forced to spread, which could be done through the one-mile separation requirement. No one at that time looked at what that meant in particular zoning districts. The city is not that big when the one-mile radius is applied. The Ernie Turner Center, for example, precludes any future CCRC on hundreds of acres of municipal land to the south of Tudor Road. The separation requirement is a very limiting factor. He did not believe there would be a large number of applications if this ordinance is adopted. He noted that he has been involved in at least a half dozen due diligence investigations for similar existing facilities. The locations of those programs restrict development of similar programs in many areas. He stated it is his view that inadvertently and unintentionally the situation has been created where these programs cannot be located in the area and surroundings that are appropriate for them.

COMMISSIONER ISHAM asked if Mr. Potter supports the 1000-foot separation requirement. MR. POTTER supported the ordinance as written. He felt the singular review of a specific program in a specific location should govern. He personally preferred that the Commission sit as the judge and jury on these requests on a case-by-case basis and, when necessary to make a program and use compatible with the area, force mitigation measures. He stated that if issues cannot be mitigated, the request should be denied. He did not want to see a situation created where program and relational benefits cannot be realized because of an arbitrary separation distance requirement.

COMMISSIONER PHELPS asked why 1000-foot is an appropriate distance versus 1,250 feet or 750 feet. MR. POTTER replied that a 1000-foot distance allows facilities to open in areas that are currently prohibited. He stated that, if in fact the program and facility convinces the Commission and community, they could ask that the separation be reduced. He noted that on the Consent Agenda tonight was Ernie Turner Center, which faced a battle initially, but has never had a complaint and is very well run. He suggested that the onus be put on the program and operator, forcing them to meet with the community and undergo the conditional use process to make their proposal work or the Commission deny the request. COMMISSIONER PHELPS asked why this is proposed for commercial zones not including B-2 and not industrial zones or R-3 or R-4 residential. MR. POTTER replied that Chanlyut is essentially a mixed-use facility except the clients are felons; the residents will operate and learn job skills at what was formerly Noble's Diner. He noted that felons can not be restricted in terms of where they live. The schools in Mountain View are one-quarter mile away from Chanlyut. That program will have to undergo a conditional use process.

COMMISSIONER JOSEPHSON noted that parolees and individuals on probation could be restricted as a condition of their release. MR. POTTER explained he was suggesting there are many felons who are on parole or under the direction of the court that do not live in a program. He noted that Ernie Turner Center came before the Commission this evening to change its occupancy by four beds. That matter could have been pulled from the Consent Agenda and a public hearing set, if the Commission desired. There can be restrictions placed on a program's approval and, if a program wishes to change, it has to come back to the Commission for program modification. COMMISSIONER JOSEPHSON asked if the Northeast Community Council and University Area Community Council have made a reasonable request regarding the distance requirement change, which is a 500% change. He asked why a 250% change or one-half mile would not be reasonable. The University Area Community Council did not object to locating these facilities in B-1, B-2, B-3 and B-4, but not near residential property. MR. POTTER thought one-half mile is arbitrary and 1000 feet is arbitrary. He stated it is not currently possible to locate appropriate facilities in relation to needed or desirable services or to have correlated services between facilities. He noted that if Pathway Homes was not on the same parcel as D'eana A Coy the women that live at D'eana A Coy could not attend high school classes at Pathway Homes.

COMMISSIONER PALMER asked the distance of Chanlyut from the nearest school. MR. POTTER replied that the distance is about one-quarter mile.



COMMISSIONER PALMER thought any facility of this type located near a school would create controversy. He asked if it is not appropriate to have a requirement that such a facility be more than 1000 feet from a school. MR. POTTER stated he fought against the re-establishment of the liquor license at Northern Lights Boulevard and Lake Otis near Wendler Middle School and Lake Otis Elementary directly adjacent to residential. Because part of the building had been used for liquor sales, it was given consent. He stated a liquor store can be located near a school, but a well-run program cannot be located within one mile of a school. He felt that every place in town is so different that the specifics of a situation should be examined. The two elementary schools in Mountain View are located some distance from each other and serve half of the neighborhood each. He felt that the Commission could listen to all positions on a proposal and make a decision. If the Commission chooses to adopt standards, that could be done at this time or in the interim period before the ordinance goes to the Assembly.

COMMISSIONER PHELPS understood there are no existing standards guiding the location of this type of facility. MR. POTTER stated the Commission is charged with reviewing many conditional uses without standards other than the general conditional use standards and this would be no different. MS. CHAMBERS stated there are general conditional use standards that cover everything from traffic to pedestrian issues to neighborhood compatibility and conformance to the *Comprehensive Plan*. Charter schools do not have standards and they are judged on a case-by-case basis. CHAIR JONES recalled that the Commission has been told that it has no authority over programmatic issues and is charged only with reviewing land use. MS. CHAMBERS stated AMC 21.50.020 regarding provides guidance for conditional uses. The State statutes regulate the programmatic aspects of the use. The impacts of the use on the surrounding area are examined during a conditional use review. MR. WEAVER noted that there are minimal standards for CCRCs in AMC 21.50.035.

COMMISSIONER FREDRICK asked if Mr. Potter would prefer to eliminate any requisite separation between facilities and leave the matter to case-by-case review. MR. POTTER replied that he is comfortable with this Commission reviewing these cases individually. He understands there is a transition period for community acceptance. Politically, he could see where a separation of 1000 feet gives the impression to the community that these facilities are forced apart. Philosophically, he felt that locating a facility or facilities is difficult when there is an arbitrary separation distance. He indicated he would not object to a 1000-foot separation.

BETTY ADKINSON, member of the University Area Community Council, stated she is concerned about the clustering of CCRC facilities in one area. She thought her area would be ripe for that because there seems to be a desire to locate these uses near medical facilities, which are clustered in the University Area. She noted that the B-3 that lines Tudor Road and other places is one-half block from an old, established residential area that she thought would be very concerned because there appears to be no control over the comings and goings of the residents of these facilities. She understood that the programs are necessary, but she was concerned with her area receiving a number of these programs.

TIM NEAL with the University Area Community Council stated he did not know what should be the distance between these facilities, but he did know these programs could be located in the wrong place. He cited the Rescue Mission on Tudor Road, noting that people sleep on the north side of Tudor Road at the Mission, they eat at establishments on the south side of Tudor, and then they camp out in Campbell Park. He stated that regardless of the distance between facilities, there should be consideration of where they are located. He noted that people trying to cross Tudor Road at 7:00 or 8:00 p.m. is very dangerous.

The public hearing was closed.

COMMISSIONER ISHAM asked why paragraph B of the current code, which states that CCRCs in the B-1B, B-3 and B-4 zoning districts may house only residents convicted of misdemeanors, is being deleted. MS. CHAMBERS explained that the ordinance would allow felons in the B-3 district and thus paragraph B is deleted. The current code does not allow convicted felons in B-CCRCs in the B-1B, B-3 and B-4 zoning districts. This ordinance proposes removing that prohibition. COMMISSIONER ISHAM asked if this change would allow convicted felons to be in CCRCs. MS. CHAMBERS replied in the affirmative. COMMISSIONER ISHAM asked whether this is a land use issue. MS. CHAMBERS replied that the land use issue is more density and impact of use, which will be addressed on a case-by-case basis.

COMMISSIONER PALMER asked why a distance of 1000 feet was chosen. MS. CHAMBERS explained that there are few instances in the code where there are separation distances. The 200 feet distance for package liquor stores and beverage dispensaries is a State licensing requirement. The city requirement is a 1000-foot separation from a premise where children are not allowed to a public park, school, church, etc. There is also a use called unlicensed nightclub, which has a 300-foot separation requirement. The 1000-foot separation is the largest separation requirement in code; the one-

mile distance separation was intended to distribute CCRCs throughout town. The Department suggested either 1000 feet or as determined by the Commission. COMMISSIONER PALMER thought that by removing the one-mile separation, the clustering of facilities might result because they would tend to locate in certain areas. MS. CHAMBERS replied that the current code already excludes these uses from a variety of districts. An assumption could be made that clustering could occur, but the Department does not see that happening. There are B-3 properties throughout town where these facilities could locate, but cannot currently because of the prohibition on felons in the B-3 district, which is a programmatic concern. The issue is not clustering as much as it is density. When there is a requirement for separation of similar uses, they can be pushed out of town because of the restrictions that exist. When a restricted use exists and a use from which it must be separated is developed nearby, they become grandfathered and there are problems, for example, if the facility burns down. It is almost better to allow a case-by-case review. COMMISSIONER PALMER asked if there was discussion amongst Staff regarding the distance of these facilities from elementary schools. MS. CHAMBERS replied that when the court system releases individuals into the community it is hoped this is considered. If there are not restrictions on an individual's release in terms of where they can live, they can live anywhere, including next to a school. Having a facility next to a school may create a density of offender types, but perhaps not. She noted that most CCRC facilities have tight programmatic restrictions. If a program were to have impacts external to the building, the Commission can take that into account. She further noted that separation from schools would include not only public schools, but also charter schools through the Anchorage School District, which can locate with no public process in many districts and with minimal public process in other districts.

COMMISSIONER JOSEPHSON stated he was formerly a state prosecutor and asked if the Staff looked at a distinction between programs where formerly incarcerated people are in a lockdown vis-à-vis people who are on probation and are free to walk the streets of Anchorage, however, a condition of their parole or probation is that they complete a program. In the former instance where someone is monitored, the 1000-foot separation would be essentially meaningless. However, in the latter, these programs necessarily must draw more felons into a community. MS. CHAMBERS did not believe that this would necessarily draw more felons to the city, but recognized that Anchorage is the largest city in the state. These programs monitor participants. She did not believe this argument makes this more of a concern. Bringing more felons into an area may or may not be an issue, but this ordinance would allow programs that provide rehabilitation in order to reduce the recidivism rate among these populations. There are ongoing

concerns with some facilities in town, frequently dealing with location, but those should be considered on a case-by-case basis.

COMMISSIONER JOSEPHSON moved for approval of an ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers, amending Section 2.B to delete "one thousand feet" and insert "2,640 feet or one-half mile," add a new paragraph I stating "CCRCs that accept felons would be restricted to areas that are currently zoned B-1, B-2, B-3 and B-4 and not adjacent to residential property" and adding a new paragraph J stating "No new CCRCs are permitted where, using the MLS quadrants, an additional or new CCRC would result in that selected quadrant having three times more CCRCs than any of the other three quadrants." COMMISSIONER COTTEN seconded.

COMMISSIONER JOSEPHSON found this issue incredibly complex. He thought for this reason the Commission should be conservative and not make a greater than 500% change to existing law as to the location of CCRCs, but to make a change of 250%, which is arguably extremely radical. This would address CITC's immediate problem regarding its facility in Mountain View and arguably solve the problem in years to come. It also recognizes that CCRCs accommodate felons. He noted that the Anchorage court system includes therapeutic courts that have been created for felons, which recognize that these programs can be helpful to reduce recidivism and promote the well being of the convicted persons. He found some of this confusing because the previous gubernatorial administration sought to entirely dissolve the sex offender treatment saying that recidivism will always exist and those efforts were ineffectual. He explained his proposal allows doubling of CCRCs and for felons to reside in CCRCs in business districts that are not near residential properties. This reflects community will as reflected through several community councils. The last paragraph he proposed would look at the MLS quadrants and allows CCRCs to be placed where desired, but if the number exceeds three times those in another quadrant, a CCRC cannot be located in that quadrant. This recognizes the testimony of Mr. Wade that Mountain View is accepting of these programs, but creates distribution and eliminates the NIMBY problem.

COMMISSIONER COTTEN agreed with Mr. Josephson on the first two points, but was apprehensive regarding the last. He was concerned with applying a rigid map formula to a social or institutional challenge. He agreed that each use must be reviewed individually and in individual circumstances.

COMMISSIONER PHELPS stated he could appreciate the difficulty of Mr. Josephson creating language, but he shared Mr. Cotten's concern. He stated he understands the Commission is reviewing this code section in the context of a specific organizational need. Looking at it in a more general way, this ordinance deals with these facilities on a citywide basis without discussion by many parts of the city, which caused him discomfort. He agreed that the Commission should be responsible and that there should be some flexibility in the ordinance, but in his review of the conditional use standards, he believed that these facilities would typically be permitted because they do not create community impacts in terms of those. The concern of the community is safety but that concern is not addressed in the conditional use standards. He agreed that schools should be considered, but that is not within the conditional use standards. He stated he would not support any motion that revises the existing ordinance.

COMMISSIONER PHELPS moved to postpone case 2007-094 to a date certain in order to allow Staff to address issues. COMMISSIONER PALMER seconded.

COMMISSIONER JOSEPHSON objected to postponing the matter, explaining that he did not wish to postpone without a plan to address the matter. COMMISSIONER PHELPS indicated he would outline his suggestions, if this motion passes.

AYE: Fredrick, Jones, Phelps

NAY: Cotten, Josephson, Isham, Palmer

FAILED

COMMISSIONER COTTEN moved to delete paragraph J. COMMISSIONER PHELPS seconded.

MS. CHAMBERS noted there are many large areas of town that are zoned only residential and have no commercial or industrial land.

Amendment

AYE: Cotten, Jones, Isham, Fredrick, Palmer, Phelps

NAY: Josephson

FAILED

COMMISSIONER ISHAM moved to delete I.

COMMISSIONER JOSEPHSON explained that paragraph I would allow felons in B-1, B-2, B-3 and B-4 properties unless they are adjacent to a residential property. COMMISSIONER ISHAM confirmed that he wished to amend to delete paragraph I. COMMISSIONER FREDRICK seconded.

COMMISSIONER ISHAM felt this was not land use related and should be left to the courts to decide.

COMMISSIONER FREDRICK thought the Commission was headed to an unintended consequence with the original proposed amendment. For example, the B-3 property in Mountain View is one-half block wide and basically this amendment would result in no CCRCs in B-3 in that area.

COMMISSIONER JOSEPHSON stated the current law would still be in effect so the CCRC could house misdemeanants adjacent to residential property.

Amendment

AYE: Jones, Isham, Fredrick, Palmer, Phelps

NAY: Cotten, Josephson

PASSED

COMMISSIONER ISHAM supported the main motion stating that a one-half mile separation is an incremental change that is politically acceptable. He felt the Commission should take this into consideration because reducing the distance from 5,280 feet to 1000 feet is significant. He believed if this is dealt with incrementally there is better opportunity for the Commission's recommendation to be accepted by the Assembly and be more palatable to the community. He noted that this ordinance can be amended in the future, if that is desired.

COMMISSIONER PHELPS did not support the motion because he felt the Commission has an opportunity to review the ordinance more comprehensively, examine it vis-à-vis other communities in the US, and review it vis-à-vis concerns raised this evening. He did not see what would be gained by rushing this action.

COMMISSIONER FREDRICK agreed with Mr. Phelps and stated he would not support the motion.

CHAIR JONES felt it was unfortunate the Commission was hearing this ordinance amendment in the summer months when there has not been an

opportunity to hear from many in the community. She noted the attendance by the public at this hearing is small in comparison to similar ordinances in the past. She felt the Commission must look at this as a community-wide issue and should be thoughtful and careful in its decision. She personally did not object to ultimately approving an ordinance because it is reality that felons live in every neighborhood and when they are in a CCRC or some similar facility the public is aware of their location. She stated she would also not support the motion.

Main Motion

AYE: Cotten, Josephson, Isham, Palmer

NAY: Phelps, Fredrick, Jones

FAILED

- 3.      2007-096                      Municipality of Anchorage. An Ordinance amending Anchorage Municipal Code Sections 21.09.040F.4 and 21.40.510 to amend the GIP District.**

Staff member AL BARRETT explained this is housekeeping. When Chapter 9 of the zoning code was adopted the Girdwood Institutions and Parks (GIP) district, which replaced PLI for the Girdwood area, included government services in the intent section, which includes the State of Alaska highway maintenance yard. The section did not continue to list government services or highway maintenance yard as permitted, accessory, or conditional uses. This was not an issue until the highway maintenance facility burned down this past winter. This amendment includes government services, which includes the highway maintenance yard, as a conditional use in the GIP district. The Girdwood Board of Supervisors and Land Use Committee both support the amendment. The applicant has already submitted a conditional use application for this facility that will be before the Commission in September.

The public hearing was opened and closed without public comment.

COMMISSIONER ISHAM moved for approval of an ordinance amending Anchorage Municipal Code Sections 21.09.040F.4 and 21.40.510 to amend the GIP District as proposed. COMMISSIONER FREDRICK seconded.

COMMISSIONER ISHAM stated this is housekeeping to correct what appears to have been an error when Chapter 9 was written.

AYE: Cotten, Josephson, Jones, Isham, Fredrick, Palmer, Phelps  
NAY: None

PASSED

**I. REPORTS – None**

**J. COMMISSIONER COMMENTS**

COMMISSIONER FREDRICK asked when the workshop on the Title 21 Economic Impact Analysis would be rescheduled. MR. BARRETT was only aware that the consultant was not yet ready.

COMMISSIONER JOSEPHSON stated he is wrestling with whether the Commission may want to reconsider case 2007-094.

COMMISSIONER PALMER stated he would be unable to attend the next Commission meeting.

COMMISSIONER PHELPS stated that he had hoped to reconsider the motion before the Commission this evening in case 2007-094. He stated he did not intend to delay this inordinately, but only to work more on it. MS. CHAMBERS explained that members who voted on the prevailing side could reconsider. COMMISSIONER PHELPS spread notice to reconsider the vote on the ordinance.

**K. ADJOURNMENT**

The meeting was adjourned at 9:50 p.m.



**MUNICIPALITY OF ANCHORAGE  
PLANNING DEPARTMENT  
MEMORANDUM**

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**G.1.**

**DATE:** October 8, 2007

**TO:** Planning and Zoning Commission

**THRU:** *TN* Tom Nelson, Director, Planning Department

**THRU:** *JTW* Jerry T. Weaver, Jr., Division Administrator

**FROM:** *AC* Angela C. Chambers, AICP, Senior Planner

**SUBJECT:** 2007-094 Reconsideration of An Ordinance Amending AMC Title 21 Regarding Community Correctional Residential Centers

**BACKGROUND**

On July 9, 2007, this ordinance regarding Community Correctional Residential Centers (CCRC) was reviewed by the Commission, and the Commission recommended denial. At the end of the meeting, notice of reconsideration was spread. At the next hearing on July 16, 2007, the Commission voted to reconsider the ordinance on October 8, 2007. The Commission directed staff to evaluate the questions of whether the ordinance is consistent with other ordinances of like type in the nation and the issue of distance separation.

**DISCUSSION**

The Department has researched locational and density criteria for uses similar to CCRC's throughout the nation, and has also reviewed the issue of concern that was discussed at the hearing regarding locational criteria for the housing of felons in said uses in and near residential neighborhoods.

The research has shown that communities tend to regulate locations of this use in methods tailored specifically to their jurisdiction. Those regulating by distance range from 600 feet from the same use to 2,000 feet. Those regulating by separation between the use and school and/or residential zoning have a minimum separation of 500 feet to 1,500 feet. Some of these jurisdictions provide an administrative tolerance for sites that are close to meeting the distance requirement. Some jurisdictions do not have separation distance requirements, but review them on a case by case basis through a public hearing.

Density issues seem to be managed through limiting minimum or maximum number of residents in some cases per facility (such as 6 or more, no more than 60, etc.). But this is a per facility basis, and when it exists, it appears to be evaluated against the residential density of the existing zoning district where the facility is to be located.

The Department also reviewed the concerns of regulating locational criteria for the housing of felons in said facilities. From research, it appears that this issue is not normally regulated through zoning, but through individual state regulations. There are currently 22 states which regulate where felons may reside, but many of them are undergoing legal challenges to these requirements on constitutional bases. The State of Alaska does not currently have such a locational regulation. The Department finds that the issue of locational criteria for housing of felons is a legal and social issue best regulated through means other than zoning. The existing definition of CCRC's provides that the Department of Corrections shall determine whether prisoners are a threat to society in determining release to a CCRC. As the court system is the long established venue for determining legal punishment and related restrictions, there is no established method for managing this through the local land use regulations.

Based upon the Department's research, the Department recommends that the separation distance between CCRC's be no less than 1,000 feet, and including a provision for the same separation distance between any new CCRC and parks or school grounds. At the same time, a maximum density requirement for the facility should be also set in the B-3 district at a density to not exceed 30 residents. Also, as convicted felons who are on probation or without parole restrictions can live anywhere of their choosing within limitations of sentencing restrictions, they should not be further restricted when a part of a rehabilitation program that meets the community's separation standards.

The Department finds that this amendment will provide for the siting of CCRC facilities on a case-by-case basis as appropriate, while maintaining intended restrictions on density. No changes to the restrictions against new facilities in the Downtown area are proposed.

#### **RECOMMENDATION:**

The Department recommends approval of the October 8, 20007 revised ordinance as written, which includes an additional provision for separation between parks and school grounds to read as follows:

Section 2.

21.50.035 Standards for correctional community residential centers.

\*\*\*                      \*\*\*                      \*\*\*

B[C].                      No new correctional community residential center may be located within one thousand feet [ONE MILE] of the lot line of an existing center or a school or park, unless the Planning and Zoning Commission determines that a further reduction in separation distance is warranted based upon the program proposed and any other circumstances the Commission deems appropriate. If the Commission reduces the separation distance, it shall adopt findings of the facts upon which such reduction is based. Measurement shall be made from the nearest property line of an existing center to the property line of the site proposed for a new center.

\*\*\*                      \*\*\*                      \*\*\*

Submitted by: Chair of the Assembly at the  
request of the Mayor  
Prepared by: Planning Department  
For reading

ANCHORAGE, ALASKA

AO 2007-

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.40, AND 21.50 REGARDING CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS, AMENDING THE B-3 (GENERAL BUSINESS) ZONING DISTRICT, AND AMENDING CONDITIONAL USE STANDARDS REGARDING CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS.

THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** Anchorage Municipal Code section 21.40.180 is hereby amended to read as follows  
(the remainder of the section is not affected and therefore is not set out):

**21.40.180 B-3 general business district.**

\*\*\* \*\*

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

\*\*\* \*\*

11. Correctional community residential centers, not to exceed 30 residents.

\*\*\* \*\*

(GAAB 21.05.050.M; AO No. 77-355; AO No. 78-28; AO No. 80-57; AO No. 80-132; AO No. 81-67(S); AO No. 83-209; AO No. 85-18; AO No. 85-91, 10-1-85; AO No. 85-173, 3-17-86; AO No. 86-90; AO No. 86-182; AO No. 87-32; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-26; AO No. 92-114; AO No. 95-68(S-1), § 9, 8-8-95; AO No. 96-107, § 1, 7-30-96; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 7, 12-8-98; AO No. 99-62, § 22, 5-11-99; AO No. 2001-80, § 6, 5-8-01; AO. No. 2004-108(S), § 3, 10-26-04; AO No. 2005-185(S), § 21, 2-28-06; AO No. 2005-124(S-1A), § 24, 4-18-06)

**Section 2.** Anchorage Municipal Code section 21.45.080 is hereby amended to read as follows  
(the remainder of the section is not affected and therefore is not set out):

**21.50.035 Standards for correctional community residential centers.**

\*\*\* \*\*

[B. CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS IN THE B-1B, B-3 AND B-4 ZONING DISTRICTS MAY HOUSE ONLY RESIDENTS

CONVICTED OF MISDEMEANORS.]

B[C]. No new correctional community residential center may be located within one thousand feet [ONE MILE] of the lot line of an existing center or a school or park, unless the Planning and Zoning Commission determines that a further reduction in separation distance is warranted based upon the program proposed and any other circumstances the Commission deems appropriate. If the Commission reduces the separation distance, it shall adopt findings of the facts upon which such reduction is based. Measurement shall be made from the nearest property line of an existing center to the property line of the site proposed for a new center.

C[D]. Program occupancy limits shall be as determined by the state department of corrections.

D[E]. The land use standard to establish maximum resident occupancy at a center is a minimum of 150 square feet of building area per resident, calculated by including all bedroom, kitchen, bathroom, living, recreation and other areas within the facility intended for common use by the residents.

E[F]. A center shall provide one off-street parking space per each full-time staff member, based on the maximum anticipated staffing.

F[G]. Correctional community residential centers structured on the apartment living concept shall adhere to the residential dwelling unit density, minimum lot, minimum yard, maximum lot coverage and maximum building height provisions of the zoning district in which they are located.

G[H]. Refuse containers and facilities shall be enclosed as required by the supplementary district regulations.

H[I]. Landscaping requirements shall conform to those of the underlying zoning district.

(AO No. 95-68(S-1), § 12, 8-8-95)

1  
2 **Section 3.** This ordinance shall be effective immediately upon its passage and approval by the  
3 Assembly.

4  
5 PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_day of  
6 \_\_\_\_\_, 2007.

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8  
9  
10 \_\_\_\_\_  
Chair

11 ATTEST:

12  
13  
14 \_\_\_\_\_  
15 Municipal Clerk

COMMISSIONER WANG stated he was not present at the July 9, 2007 meeting and had not had an opportunity to review the record in case 2007-094. VICE CHAIR ISHAM excused him from participation in case 2007-094.

COMMISSIONER COTTEN arrived at 6:34 p.m.

**2. Notice of Reconsideration**

- a. **2007-094** Municipality of Anchorage. An Ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers.

COMMISSIONER PHELPS moved to reconsider case 2007-094.  
COMMISSIONER ISHAM seconded.

AYE: Cotten, Fredrick, Jones, Isham, Phelps

NAY: None

ABSTAIN: Pease, Wang

PASSED

COMMISSIONER PHELPS noted that there was considerable discussion in case 2007-094 at the Commission's July 9, 2007 meeting regarding a particular facility and his concern was that a major section of the code was being amended in a way to accommodate that facility. He expounded that his concern was that action was to be taken on one aspect of the ordinance without considering other aspects of the ordinance. Amendments were being offered in consideration of this case that seemed to deal with the issue, but that were not entirely properly crafted and he felt that issues were not being adequately addressed. When the issue of distance requirement was discussed, it seemed that section of the ordinance would not seem to be effective in achieving the intent to separate commercial and residential uses. Most importantly, this is a fairly contentious issue and community councils felt they had insufficient time to deal with it. He did not feel comfortable acting on the ordinance at that time.

CHAIR JONES noted that the original motion to approve case 2007-094 is before the body.

COMMISSIONER PHELPS moved to postpone the motion to approve case 2007-094 to a date certain in order to evaluate the ordinance in a comprehensive way and to deal with the questions of whether the ordinance is consistent with other ordinances of like type in the nation and the issue of distance separation. COMMISSIONER ISHAM seconded.

Staff member ANGELA CHAMBERS asked to what date certain the matter would be postponed. COMMISSIONER PHELPS asked what length of time would be required to conduct the review he has requested. MS. CHAMBERS replied that the matter could be postponed to October 8, 2007.

COMMISSIONER PHELPS amended his motion to postpone to October 8, 2007. COMMISSIONER ISHAM concurred as the second.

CHAIR JONES clarified that this action, if approved, would postpone the motion to approve the ordinance, as it was before the Commission on July 9, 2007.

AYE: Cotten, Fredrick, Jones, Isham, Phelps

NAY: None

ABSTAIN: Pease, Wang

PASSED

CHAIR JONES asked that this matter be re-advertised and advertised in the newspaper.

#### **D. CONSENT AGENDA**

##### **1. Resolutions for Approval: 2007-038**

##### **3. Site/Landscape Plan Approval**

- a. 2007-105** Municipality of Anchorage. A non-public hearing public facility site plan review for 100th Avenue Improvements from Victor Road to Pointe Resolution Drive.
- b. 2007-107** Municipality of Anchorage. A non-public hearing public facility site plan review for 72nd Avenue from Lake Otis Parkway east



Family Residential) to R-3 (Multiple Family Residential). T13N, R3W, Section 33, Lots 45, 49A, 49B, 49C and 52, S.M., AK. Located at 2300 East 49th Ct. #200. Located at 2300 E. 49th Court

Staff member ANGELA CHAMBERS indicated the Commission would need to vote on the request to postpone as the matter has been advertised.

COMMISSIONER FREDRICK moved to postpone case 2007-087 to September 17, 2007. COMMISSIONER ISHAM seconded.

AYE: Cotten, Josephson, Jones, Isham, Fredrick, Palmer, Phelps  
NAY: None

PASSED

***POSTPONED TO SEPTEMBER 17, 2007***

2.      **2007-094**              Municipality of Anchorage. An Ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers.

Staff member ANGELA CHAMBERS noted that the Commission and Assembly have reviewed an assisted living facility ordinance in the past and there have been discussions regarding healthcare facilities in town. There has been significant discussion of locational criteria for Correctional Community Residential Centers (CCRCs), which are rehabilitative facilities that they serve as an alternative to jail for those clients who qualify, which may include misdemeanants and felons. Frequently these services require close proximity to urban services such as hospitals, other rehabilitation services/programs, and other social services. Currently there is a one-mile separation requirement between these facilities. This requirement, combined with the prohibition of housing felons in these facilities in the B-3 district, creates problems for locating new facilities in the Anchorage Bowl in

particular. These requirements currently restrict the placement of these facilities in areas removed from needed services. With the proposed ordinance, the Department recommends that the separation distance between CCRCs be amended to 1000 feet or as determined by the Commission on a case-by-case basis. The Commission would retain conditional use review authority to determine on a case-by-case basis if the use is appropriate for the particular site. The Department also proposes a maximum density for these facilities in the B-3 district of no more than 30 residents. Coupled with the 1000-foot separation, this would serve to regulate the location more by density. As convicted felons who are on probation or parole without restrictions are able to live in locations of their choosing, the Department finds that they should not be further restricted when participating in a rehabilitative program. The Department supports the ordinance as written.

COMMISSIONER JOSEPHSON asked for a recess in order to review additional material that was distributed this evening. CHAIR JONES granted this request.

<b>BREAK</b>
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COMMISSIONER ISHAM asked if there are currently limits on the number of residents in these facilities. MS. CHAMBERS replied that there is no such restriction in the zoning code, any more than on residential uses in general. These facilities are not allowed in residential districts or in commercial districts where residential is allowed. Programmatic requirements and licensing dictate the limits on the number of residents in a facility. COMMISSIONER ISHAM understood the proposal was to allow no more than 30 residents per facility. MS. CHAMBERS replied that the restrictions apply primarily to the B-3 district. There is minimal B-1 or B-4 property in town. COMMISSIONER ISHAM understood that the size of facility could vary, but the number of residents would be limited to 30.

COMMISSIONER JOSEPHSON asked if this proposal is being driven by individual concerns and could those be accommodated in some other way. MS. CHAMBERS replied that this has been an ongoing issue for many programs. The Department did not want to address this in the assisted living ordinance because it is a separate issue. The ordinance is not driven by particular groups or facilities.

The public hearing was opened.

PEGGY ROBINSON, president of the Northeast Community Council, indicated the Council has submitted a written resolution regarding this ordinance. When this was discussed at the Council's June 21<sup>st</sup> meeting it was a more substantial discussion than she had expected. She stated that although the Council receives notices of cases with sufficient time for a committee to form and discuss them, there was no Staff recommendation to provide background in this case. The Council's Title 21 chair spoke with Ms. Chambers about the ordinance and tried to relay some of that information. The Council realizes that there is need for rehabilitative facilities and understands the desire to not be restrictive so that more cannot be provided, but there are concerns that a large numbers of them not be congregated in one area of town. Decreasing the separation between facilities to 1000 feet was thought to be too much. The Council suggested a distance of perhaps one-half mile. There is also a concern with felons residing in the facilities and the Council suggested 10% as a limitation on the felon component of the overall facility population. People were concerned with sex offenders in facilities on B-3 property that could be close to residential land. The Council understands the need for some changes, but felt the current proposal goes too far. She noted that some other community councils do not meet in June and there may not have been a good venue for disseminating information and discussing issues that might directly affect residents in other councils.

LISA RIEGER, General Counsel and Vice President of Cook Inlet Tribal Council (CITC), voiced support for the ordinance before the Commission. She explained that CITC is a 24-year old organization that administers 42 programs serving 7,000 participates annually in the areas of education, job training, recovery services, and family services. The mission focuses on working in partnership with participants and to develop opportunities to fulfill their potential. The organization is driven by personal responsibility, accountability and transparency in its operations. Chanlyut is a new initiative. It is the Dena'ina Athabascan word for "new beginning" and will serve Anchorage's most vulnerable and marginalized population of all ethnicities, men only, no sex offenders, and will be capped at 20 residents. This program is about personal responsibility. This project is based on the Delancey Street Foundation, which is a successful program with a track record in several states. Over 70% of Delancey Street graduates successfully lead productive, crime-free life compared to the 30% who leave prison. This program does not cost the taxpayer or clients. A strong principle of Delancey Street is to not use government funding. Revenue for Chanlyut will be generated through micro enterprises, which are training schools for the participants. These enterprises will also contribute to the community by bringing more enterprise. The program has highly structured days with an emphasis on education and self-improvement. There is a minimum two-year

commitment during which time at least three marketable skills and a strong work ethic are taught. The program is considering a location on B-3 property in Mountain View. This is an ideal location for the clients and the community. There has been strong, long-standing community support and CITC has been working with the Mountain View Community Council for some time. Under the current ordinance the program cannot operate as a CCRC because of the distance requirements from similar facilities. The Department recommended that these types of limited size programs be allowed in the B-3 district. The requested amendment to the separation distance reduces density to allow placement of felons judged not to be a danger to the community into the program. These amendments will provide a better selection of programs with a proven track record for the courts and Corrections to consider in the reformation and rehabilitation of offenders. This program will succeed where others have failed.

COMMISSIONER ISHAM asked if this facility would take a maximum of 20 people and no sex offenders. MS. RIEGER replied that the program would accept a maximum of 20 people, no sex offenders and no arsonists. COMMISSIONER ISHAM understood there is another CCRC within one mile. MS. RIEGER replied that D'eana A Coy is just short of one mile.

COMMISSIONER COTTEN asked the proximity of the residential neighborhood to the B-3 property where Chanlyut would locate. MS. RIEGER replied that it is across the alley.

COMMISSIONER PALMER understood the residents of Chanlyut would include felons judged not to be a danger to society and asked who determines that. MS. RIEGER replied that this determination is by the Department of Corrections. COMMISSIONER PALMER noted the ordinance change proposes up to 30 residents and Chanlyut takes 20. The ordinance does not say anything about sex offenders, but Chanlyut will not take sex offenders. There is no discussion about proximity to schools. COMMISSIONER PALMER asked what distance a facility like this should be located from a school. MS. RIEGER believed the current ordinance deals with sex offenders at CCRCs. She was uncertain what is the recommendation of the Department regarding distance from schools.

COMMISSIONER COTTEN asked if Staff is aware of similar programs or centers to be established within Anchorage in the next 6 to 18 months and, if so, what are the aspects of those. MS. CHAMBERS indicated this is difficult for Staff to gauge. There have been discussions with organizations over the years and many would like to propose facilities. The Commission would judge each on a case-by-case basis and there is no guarantee of approval. She noted

that the Commission has denied conditional use requests in the past. Each program may be different in terms of criteria and requirements, but each CCRC provides its guidelines to the Commission during the conditional use review. In terms of sex offenders, she noted that there are many felons with a variety of convictions in their backgrounds that currently live throughout various areas of town. She noted that each program is tied to its programmatic requirements.

COMMISSIONER JOSEPHSON asked if the Commission would see Chanlyut. MS. CHAMBERS replied that any application for a conditional use would have to come to the Commission for approval; that does not guarantee the Commission will approve it. This type of use requires a conditional use permit because it may or may not be appropriate in a particular district and under particular circumstances. She stated the Commission would review Chanlyut. COMMISSIONER JOSEPHSON referred to the Northeast Community Council's comment regarding concentration and noted that when he purchased a home some years ago he reviewed the sex offender registry and found that most live in north/northeast Anchorage. He thought this ordinance provides an opportunity to de-concentrate these populations so that the more affluent areas of town bear some responsibility for these facilities. MS. CHAMBERS responded that there are no legal restrictions except for probationary requirements on where convicted sex offenders can live. Part of the concern when this ordinance was created was clustering of these facilities in downtown. At that time, those facilities were halfway houses. This facility would be considered rehabilitative if not for the correctional nature of some of the clientele. Prohibiting certain types of felons would not prevent clustering in any part of town, but would prevent them from getting the type of rehabilitation the courts deem are appropriate. She thought that imposing more restrictions could be seen as restricting these individuals from living in certain parts of town rather than addressing over-concentration of facilities in a certain part of town. She suggested that the Commission be cautious and understand intent in dealing with these type of issues.

HUGH WADE, President of the Mountain View Community Council, spoke in support of Chanlyut's efforts. He stated the Council has been involved in the process of this facility from the beginning and a good partnership has been formed with CITC. The Council has written letters of support and has met with people from the Lower 48. He stated that Mountain View has clustering of facilities and Mountain View welcomes organizations that have a mission of people getting better. He stated that the worry is with people who are not in CCRCs, not the residents of CCRCs who are turning their lives around and making sacrifices to do it. He stated that these individuals

become involved in the community. He stated he personally supports the ordinance amendment. He added that in addition to Chanlyut, the community has Homeward Bound that has operated for 10 years and serves alcoholic individuals who are moving from the streets to independent living.

COMMISSIONER PHELPS understood that the Mountain View community might accept another facility in addition to Chanlyut. MR. WADE replied in the affirmative. He stated that the community is proud to welcome more facilities of this type and supports other communities welcoming them as well. COMMISSIONER PHELPS asked whether Mr. Wade supports a 1000-foot separation between similar facilities. MR. WADE felt that separation was adequate. He stated Mountain View is comprised of high density residential that abuts a commercial district. The issue is not distance between facilities; the problem in Mountain View is that it is a neighborhood of last resort. He stated he does not worry about these types of programs, but rather about the sex offenders who live throughout the area.

COMMISSIONER PHELPS asked if this type of facility could work in a residential area. MR. WADE replied in the affirmative.

COMMISSIONER ISHAM asked if the Council voted to support this ordinance amendment. MR. WADE replied that the Council is on summer break and did not have a meeting in July. However, the Executive Board discussed this ordinance and the members instructed him to voice support at this meeting. He and other Council members have participated in the process involving in Chanlyut.

BARBARA GARNER, University Area Community Council board member, stated she had intended to condense the written comments that were sent to the Commission. She stated the Council realizes the importance of and need for these programs, but the question is if these people are at the end of their time in prison and being placed in CCRCs to continue serving their time. She questioned how they could be in a CCRC program if they are on probation or parole. Public safety is of primary concern. The Council is concerned with allowing these facilities in B-3 because the University Area Community Council has a great deal of B-3, particularly along Lake Otis Parkway and Tudor Road. The Rescue Mission is located in this area. The Rescue Mission has been running a program in the former Tupperware building that the Council feels is illegal that has been ongoing for two years. This is less than one mile from the Ernie Turner CCRC located at Tudor Road and Bragaw Road. There is concern that this ordinance would permit both the Rescue Mission and the other program. The Mayor has been apparently working to relocate the Rescue Mission, however, the Community Council is not involved in that process. The Council is trying hard to understand what is going on

with that effort, but it is difficult for this residential neighborhood, which is now called the U-Med Gateway neighborhood. This area supports students of the university, faculty at the university and medical workers who live in the area and walk to work. Their safety needs to be protected. She asked that the Commission's decision be postponed and the matter be returned to the Mayor for further development.

COMMISSIONER PALMER asked if the issue of the Rescue Mission is separate from the matter before the Commission. MS. GARNER replied that there is a program in the Tupperware building that is within one mile of the Ernie Turner Center.

MS. GARNER submitted a memorandum from the Airport Heights Community Council requesting a postponement of this action.

TIM POTTER stated that when halfway houses were robust and making money, they were cropping up in the downtown area. The action by the Assembly to adopt the current ordinance was an almost emergency measure to try to shut that down. Part of the discussion was that if it is good for downtown, it is good for the rest of the city and the locations of these facilities should be forced to spread, which could be done through the one-mile separation requirement. No one at that time looked at what that meant in particular zoning districts. The city is not that big when the one-mile radius is applied. The Ernie Turner Center, for example, precludes any future CCRC on hundreds of acres of municipal land to the south of Tudor Road. The separation requirement is a very limiting factor. He did not believe there would be a large number of applications if this ordinance is adopted. He noted that he has been involved in at least a half dozen due diligence investigations for similar existing facilities. The locations of those programs restrict development of similar programs in many areas. He stated it is his view that inadvertently and unintentionally the situation has been created where these programs cannot be located in the area and surroundings that are appropriate for them.

COMMISSIONER ISHAM asked if Mr. Potter supports the 1000-foot separation requirement. MR. POTTER supported the ordinance as written. He felt the singular review of a specific program in a specific location should govern. He personally preferred that the Commission sit as the judge and jury on these requests on a case-by-case basis and, when necessary to make a program and use compatible with the area, force mitigation measures. He stated that if issues cannot be mitigated, the request should be denied. He did not want to see a situation created where program and relational benefits cannot be realized because of an arbitrary separation distance requirement.

COMMISSIONER PHELPS asked why 1000-foot is an appropriate distance versus 1,250 feet or 750 feet. MR. POTTER replied that a 1000-foot distance allows facilities to open in areas that are currently prohibited. He stated that, if in fact the program and facility convinces the Commission and community, they could ask that the separation be reduced. He noted that on the Consent Agenda tonight was Ernie Turner Center, which faced a battle initially, but has never had a complaint and is very well run. He suggested that the onus be put on the program and operator, forcing them to meet with the community and undergo the conditional use process to make their proposal work or the Commission deny the request. COMMISSIONER PHELPS asked why this is proposed for commercial zones not including B-2 and not industrial zones or R-3 or R-4 residential. MR. POTTER replied that Chanlyut is essentially a mixed-use facility except the clients are felons; the residents will operate and learn job skills at what was formerly Noble's Diner. He noted that felons can not be restricted in terms of where they live. The schools in Mountain View are one-quarter mile away from Chanlyut. That program will have to undergo a conditional use process.

COMMISSIONER JOSEPHSON noted that parolees and individuals on probation could be restricted as a condition of their release. MR. POTTER explained he was suggesting there are many felons who are on parole or under the direction of the court that do not live in a program. He noted that Ernie Turner Center came before the Commission this evening to change its occupancy by four beds. That matter could have been pulled from the Consent Agenda and a public hearing set, if the Commission desired. There can be restrictions placed on a program's approval and, if a program wishes to change, it has to come back to the Commission for program modification. COMMISSIONER JOSEPHSON asked if the Northeast Community Council and University Area Community Council have made a reasonable request regarding the distance requirement change, which is a 500% change. He asked why a 250% change or one-half mile would not be reasonable. The University Area Community Council did not object to locating these facilities in B-1, B-2, B-3 and B-4, but not near residential property. MR. POTTER thought one-half mile is arbitrary and 1000 feet is arbitrary. He stated it is not currently possible to locate appropriate facilities in relation to needed or desirable services or to have correlated services between facilities. He noted that if Pathway Homes was not on the same parcel as D'eana A Coy the women that live at D'eana A Coy could not attend high school classes at Pathway Homes.

COMMISSIONER PALMER asked the distance of Chanlyut from the nearest school. MR. POTTER replied that the distance is about one-quarter mile.



COMMISSIONER PALMER thought any facility of this type located near a school would create controversy. He asked if it is not appropriate to have a requirement that such a facility be more than 1000 feet from a school. MR. POTTER stated he fought against the re-establishment of the liquor license at Northern Lights Boulevard and Lake Otis near Wendler Middle School and Lake Otis Elementary directly adjacent to residential. Because part of the building had been used for liquor sales, it was given consent. He stated a liquor store can be located near a school, but a well-run program cannot be located within one mile of a school. He felt that every place in town is so different that the specifics of a situation should be examined. The two elementary schools in Mountain View are located some distance from each other and serve half of the neighborhood each. He felt that the Commission could listen to all positions on a proposal and make a decision. If the Commission chooses to adopt standards, that could be done at this time or in the interim period before the ordinance goes to the Assembly.

COMMISSIONER PHELPS understood there are no existing standards guiding the location of this type of facility. MR. POTTER stated the Commission is charged with reviewing many conditional uses without standards other than the general conditional use standards and this would be no different. MS. CHAMBERS stated there are general conditional use standards that cover everything from traffic to pedestrian issues to neighborhood compatibility and conformance to the *Comprehensive Plan*. Charter schools do not have standards and they are judged on a case-by-case basis. CHAIR JONES recalled that the Commission has been told that it has no authority over programmatic issues and is charged only with reviewing land use. MS. CHAMBERS stated AMC 21.50.020 regarding provides guidance for conditional uses. The State statutes regulate the programmatic aspects of the use. The impacts of the use on the surrounding area are examined during a conditional use review. MR. WEAVER noted that there are minimal standards for CCRCs in AMC 21.50.035.

COMMISSIONER FREDRICK asked if Mr. Potter would prefer to eliminate any requisite separation between facilities and leave the matter to case-by-case review. MR. POTTER replied that he is comfortable with this Commission reviewing these cases individually. He understands there is a transition period for community acceptance. Politically, he could see where a separation of 1000 feet gives the impression to the community that these facilities are forced apart. Philosophically, he felt that locating a facility or facilities is difficult when there is an arbitrary separation distance. He indicated he would not object to a 1000-foot separation.

BETTY ADKINSON, member of the University Area Community Council, stated she is concerned about the clustering of CCRC facilities in one area. She thought her area would be ripe for that because there seems to be a desire to locate these uses near medical facilities, which are clustered in the University Area. She noted that the B-3 that lines Tudor Road and other places is one-half block from an old, established residential area that she thought would be very concerned because there appears to be no control over the comings and goings of the residents of these facilities. She understood that the programs are necessary, but she was concerned with her area receiving a number of these programs.

TIM NEAL with the University Area Community Council stated he did not know what should be the distance between these facilities, but he did know these programs could be located in the wrong place. He cited the Rescue Mission on Tudor Road, noting that people sleep on the north side of Tudor Road at the Mission, they eat at establishments on the south side of Tudor, and then they camp out in Campbell Park. He stated that regardless of the distance between facilities, there should be consideration of where they are located. He noted that people trying to cross Tudor Road at 7:00 or 8:00 p.m. is very dangerous.

The public hearing was closed.

COMMISSIONER ISHAM asked why paragraph B of the current code, which states that CCRCs in the B-1B, B-3 and B-4 zoning districts may house only residents convicted of misdemeanors, is being deleted. MS. CHAMBERS explained that the ordinance would allow felons in the B-3 district and thus paragraph B is deleted. The current code does not allow convicted felons in B-CCRCs in the B-1B, B-3 and B-4 zoning districts. This ordinance proposes removing that prohibition. COMMISSIONER ISHAM asked if this change would allow convicted felons to be in CCRCs. MS. CHAMBERS replied in the affirmative. COMMISSIONER ISHAM asked whether this is a land use issue. MS. CHAMBERS replied that the land use issue is more density and impact of use, which will be addressed on a case-by-case basis.

COMMISSIONER PALMER asked why a distance of 1000 feet was chosen. MS. CHAMBERS explained that there are few instances in the code where there are separation distances. The 200 feet distance for package liquor stores and beverage dispensaries is a State licensing requirement. The city requirement is a 1000-foot separation from a premise where children are not allowed to a public park, school, church, etc. There is also a use called unlicensed nightclub, which has a 300-foot separation requirement. The 1000-foot separation is the largest separation requirement in code; the one-

mile distance separation was intended to distribute CCRCs throughout town. The Department suggested either 1000 feet or as determined by the Commission. COMMISSIONER PALMER thought that by removing the one-mile separation, the clustering of facilities might result because they would tend to locate in certain areas. MS. CHAMBERS replied that the current code already excludes these uses from a variety of districts. An assumption could be made that clustering could occur, but the Department does not see that happening. There are B-3 properties throughout town where these facilities could locate, but cannot currently because of the prohibition on felons in the B-3 district, which is a programmatic concern. The issue is not clustering as much as it is density. When there is a requirement for separation of similar uses, they can be pushed out of town because of the restrictions that exist. When a restricted use exists and a use from which it must be separated is developed nearby, they become grandfathered and there are problems, for example, if the facility burns down. It is almost better to allow a case-by-case review. COMMISSIONER PALMER asked if there was discussion amongst Staff regarding the distance of these facilities from elementary schools. MS. CHAMBERS replied that when the court system releases individuals into the community it is hoped this is considered. If there are not restrictions on an individual's release in terms of where they can live, they can live anywhere, including next to a school. Having a facility next to a school may create a density of offender types, but perhaps not. She noted that most CCRC facilities have tight programmatic restrictions. If a program were to have impacts external to the building, the Commission can take that into account. She further noted that separation from schools would include not only public schools, but also charter schools through the Anchorage School District, which can locate with no public process in many districts and with minimal public process in other districts.

COMMISSIONER JOSEPHSON stated he was formerly a state prosecutor and asked if the Staff looked at a distinction between programs where formerly incarcerated people are in a lockdown vis-à-vis people who are on probation and are free to walk the streets of Anchorage, however, a condition of their parole or probation is that they complete a program. In the former instance where someone is monitored, the 1000-foot separation would be essentially meaningless. However, in the latter, these programs necessarily must draw more felons into a community. MS. CHAMBERS did not believe that this would necessarily draw more felons to the city, but recognized that Anchorage is the largest city in the state. These programs monitor participants. She did not believe this argument makes this more of a concern. Bringing more felons into an area may or may not be an issue, but this ordinance would allow programs that provide rehabilitation in order to reduce the recidivism rate among these populations. There are ongoing

concerns with some facilities in town, frequently dealing with location, but those should be considered on a case-by-case basis.

COMMISSIONER JOSEPHSON moved for approval of an ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers, amending Section 2.B to delete "one thousand feet" and insert "2,640 feet or one-half mile," add a new paragraph I stating "CCRCs that accept felons would be restricted to areas that are currently zoned B-1, B-2, B-3 and B-4 and not adjacent to residential property" and adding a new paragraph J stating "No new CCRCs are permitted where, using the MLS quadrants, an additional or new CCRC would result in that selected quadrant having three times more CCRCs than any of the other three quadrants." COMMISSIONER COTTEN seconded.

COMMISSIONER JOSEPHSON found this issue incredibly complex. He thought for this reason the Commission should be conservative and not make a greater than 500% change to existing law as to the location of CCRCs, but to make a change of 250%, which is arguably extremely radical. This would address CITC's immediate problem regarding its facility in Mountain View and arguably solve the problem in years to come. It also recognizes that CCRCs accommodate felons. He noted that the Anchorage court system includes therapeutic courts that have been created for felons, which recognize that these programs can be helpful to reduce recidivism and promote the well being of the convicted persons. He found some of this confusing because the previous gubernatorial administration sought to entirely dissolve the sex offender treatment saying that recidivism will always exist and those efforts were ineffectual. He explained his proposal allows doubling of CCRCs and for felons to reside in CCRCs in business districts that are not near residential properties. This reflects community will as reflected through several community councils. The last paragraph he proposed would look at the MLS quadrants and allows CCRCs to be placed where desired, but if the number exceeds three times those in another quadrant, a CCRC cannot be located in that quadrant. This recognizes the testimony of Mr. Wade that Mountain View is accepting of these programs, but creates distribution and eliminates the NIMBY problem.

COMMISSIONER COTTEN agreed with Mr. Josephson on the first two points, but was apprehensive regarding the last. He was concerned with applying a rigid map formula to a social or institutional challenge. He agreed that each use must be reviewed individually and in individual circumstances.

COMMISSIONER PHELPS stated he could appreciate the difficulty of Mr. Josephson creating language, but he shared Mr. Cotten's concern. He stated he understands the Commission is reviewing this code section in the context of a specific organizational need. Looking at it in a more general way, this ordinance deals with these facilities on a citywide basis without discussion by many parts of the city, which caused him discomfort. He agreed that the Commission should be responsible and that there should be some flexibility in the ordinance, but in his review of the conditional use standards, he believed that these facilities would typically be permitted because they do not create community impacts in terms of those. The concern of the community is safety but that concern is not addressed in the conditional use standards. He agreed that schools should be considered, but that is not within the conditional use standards. He stated he would not support any motion that revises the existing ordinance.

COMMISSIONER PHELPS moved to postpone case 2007-094 to a date certain in order to allow Staff to address issues. COMMISSIONER PALMER seconded.

COMMISSIONER JOSEPHSON objected to postponing the matter, explaining that he did not wish to postpone without a plan to address the matter. COMMISSIONER PHELPS indicated he would outline his suggestions, if this motion passes.

AYE: Fredrick, Jones, Phelps

NAY: Cotten, Josephson, Isham, Palmer

FAILED

COMMISSIONER COTTEN moved to delete paragraph J. COMMISSIONER PHELPS seconded.

MS. CHAMBERS noted there are many large areas of town that are zoned only residential and have no commercial or industrial land.

Amendment

AYE: Cotten, Jones, Isham, Fredrick, Palmer, Phelps

NAY: Josephson

FAILED

COMMISSIONER ISHAM moved to delete I.

COMMISSIONER JOSEPHSON explained that paragraph I would allow felons in B-1, B-2, B-3 and B-4 properties unless they are adjacent to a residential property. COMMISSIONER ISHAM confirmed that he wished to amend to delete paragraph I. COMMISSIONER FREDRICK seconded.

COMMISSIONER ISHAM felt this was not land use related and should be left to the courts to decide.

COMMISSIONER FREDRICK thought the Commission was headed to an unintended consequence with the original proposed amendment. For example, the B-3 property in Mountain View is one-half block wide and basically this amendment would result in no CCRCs in B-3 in that area.

COMMISSIONER JOSEPHSON stated the current law would still be in effect so the CCRC could house misdemeanants adjacent to residential property.

Amendment

AYE: Jones, Isham, Fredrick, Palmer, Phelps

NAY: Cotten, Josephson

PASSED

COMMISSIONER ISHAM supported the main motion stating that a one-half mile separation is an incremental change that is politically acceptable. He felt the Commission should take this into consideration because reducing the distance from 5,280 feet to 1000 feet is significant. He believed if this is dealt with incrementally there is better opportunity for the Commission's recommendation to be accepted by the Assembly and be more palatable to the community. He noted that this ordinance can be amended in the future, if that is desired.

COMMISSIONER PHELPS did not support the motion because he felt the Commission has an opportunity to review the ordinance more comprehensively, examine it vis-à-vis other communities in the US, and review it vis-à-vis concerns raised this evening. He did not see what would be gained by rushing this action.

COMMISSIONER FREDRICK agreed with Mr. Phelps and stated he would not support the motion.

CHAIR JONES felt it was unfortunate the Commission was hearing this ordinance amendment in the summer months when there has not been an

opportunity to hear from many in the community. She noted the attendance by the public at this hearing is small in comparison to similar ordinances in the past. She felt the Commission must look at this as a community-wide issue and should be thoughtful and careful in its decision. She personally did not object to ultimately approving an ordinance because it is reality that felons live in every neighborhood and when they are in a CCRC or some similar facility the public is aware of their location. She stated she would also not support the motion.

Main Motion

AYE: Cotten, Josephson, Isham, Palmer

NAY: Phelps, Fredrick, Jones

FAILED

3.      **2007-096**                      Municipality of Anchorage. An Ordinance amending Anchorage Municipal Code Sections 21.09.040F.4 and 21.40.510 to amend the GIP District.

Staff member AL BARRETT explained this is housekeeping. When Chapter 9 of the zoning code was adopted the Girdwood Institutions and Parks (GIP) district, which replaced PLI for the Girdwood area, included government services in the intent section, which includes the State of Alaska highway maintenance yard. The section did not continue to list government services or highway maintenance yard as permitted, accessory, or conditional uses. This was not an issue until the highway maintenance facility burned down this past winter. This amendment includes government services, which includes the highway maintenance yard, as a conditional use in the GIP district. The Girdwood Board of Supervisors and Land Use Committee both support the amendment. The applicant has already submitted a conditional use application for this facility that will be before the Commission in September.

The public hearing was opened and closed without public comment.

COMMISSIONER ISHAM moved for approval of an ordinance amending Anchorage Municipal Code Sections 21.09.040F.4 and 21.40.510 to amend the GIP District as proposed. COMMISSIONER FREDRICK seconded.

COMMISSIONER ISHAM stated this is housekeeping to correct what appears to have been an error when Chapter 9 was written.

AYE: Cotten, Josephson, Jones, Isham, Fredrick, Palmer, Phelps  
NAY: None

PASSED

**I. REPORTS – None**

**J. COMMISSIONER COMMENTS**

COMMISSIONER FREDRICK asked when the workshop on the Title 21 Economic Impact Analysis would be rescheduled. MR. BARRETT was only aware that the consultant was not yet ready.

COMMISSIONER JOSEPHSON stated he is wrestling with whether the Commission may want to reconsider case 2007-094.

COMMISSIONER PALMER stated he would be unable to attend the next Commission meeting.

COMMISSIONER PHELPS stated that he had hoped to reconsider the motion before the Commission this evening in case 2007-094. He stated he did not intend to delay this inordinately, but only to work more on it. MS. CHAMBERS explained that members who voted on the prevailing side could reconsider. COMMISSIONER PHELPS spread notice to reconsider the vote on the ordinance.

**K. ADJOURNMENT**

The meeting was adjourned at 9:50 p.m.



Residential Care / Rehabilitative Care / Large Group Home / Halfway House					
Communities	Population	Allowed number of residents	Separation between same use	Separation between use and schools	Separation between use and residential districts
Denver, CO	571,000	9 or more; max is between 20 and 60 depending on zoning district	2,000 feet; no more than 2 within 4,000 feet	1,500 feet with 10% grace area	1,500 feet with 10% administrative determination
Grand Rapids, MI	200,000	13-20	Regulated via Site Plan Review process on a case by case basis in the residential districts. Site plan review includes mapping of all uses within a 200 foot radius of proposed facility.		
Reno, NV	212,000	6 or more	600 feet from same use	1,000 feet	N/A
Billings, MT	103,000	Requires a Special Review (SR) process. Special review looks at all uses within 300 foot radius to determine compatibility. No other regulations were sited.			
Irvine, CA	202,000	Requires a Conditional Use Permit (CUP) in all allowed districts. Allowed in all residential use districts, and medical, institutional, and life long learning districts. Must comply with standard CUP regulations which includes the use being compatible with existing and future uses, and will not be detrimental to the public health, safety, and welfare.			
Tucson, AZ	535,000	The max. may be 10, 15, 20, or unlimited, depending on the zoning district	1,200 feet in any direction	N/A	500 feet from boundary line to R-3 or more restrictive zoning
Rehabilitative Service Care. Allowed in Medium and High density residential zones, but subject to a Special Exception Land Review. Allowed in all Commercial and Office and subject to the same review process. Allowed in Light, Heavy, and Park Industrial zones, and also subject to the same review process.					

## Land Use Research

Denver, CO

**ARTICLE I. IN GENERAL\****Denver*

**\*Editor's note:** Ord. No. 361-03, § 1, effective May 23, 2003, repealed article I, sections 59-1, 59-2, in its entirety and replaced it with a new article I, sections 59-1, 59-2. Former article I pertained to similar material and derived from Code 1950, §§ 611.1-1, 619.1--619.485 as amended. See the Table of Zoning Amendments for a detailed list of ordinances amending former article I.

**Sec. 59-1. Purpose.**

This chapter is enacted to preserve and promote the public health, safety and welfare of the inhabitants of the city, and of the public generally, and to encourage and facilitate the orderly growth and expansion of the city.

(Ord. No. 361-03, § 1, eff. 5-23-03)

**Sec. 59-2. Definitions.**

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

(1) *Accessory structure:* A detached or attached subordinate structure located on the same zone lot with the main building, the use of which is customary to the main building.

(1.5) *Adjacent:* Sharing a zone lot line or being separated only by an alley. Named or numbered streets destroy adjacency.

(Ord. No. 326-06, § 1, eff. 5-26-06)

(2) *Adult amusement or entertainment:* Amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing or relating to "specified sexual activities" or "specified anatomical area" or which feature strippers or dancers, or similar entertainment by people who expose any specified anatomical area; provided, however, that live entertainment involving any specified sexual activity is prohibited.

(3) *Adult care home:* A home occupation providing less than twenty-four (24) hour care of four (4) or fewer clients, over the age of sixteen (16) years. In zone districts where home occupations of foster family care, rooming and/or boarding and adult care home are permitted, only one (1) such home occupation will be permitted in any single-unit dwelling or dwelling unit.

(4) *Adult establishment:* Any one (1) of the following establishments: adult amusement or entertainment; bookstore, adult; eating place with adult amusement or entertainment; photo studio, adult; sexually oriented commercial enterprise; or theater, adult.

(5) *Agriculture, limited:* Limited agricultural activities including, but not limited to: grazing of livestock, forage and feed crop production, sod farming, truck farming, and fruit and nut tree orchards; excluding, however, feed lots, hog farms, dairies, poultry and egg production facilities, bee-keeping and apiaries, horse boarding, and riding stables.

grandmother, grandfather, son, daughter, sister, brother, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece living together as a single nonprofit housekeeping unit, plus domestic servants employed for services on the premises.

(73) *Commercial museum*: A commercial establishment for preserving and exhibiting artistic, historical, scientific, natural or manmade objects of interest. Such activity may include the sale of the objects collected and memorabilia, the sale of craftwork and artwork, boutiques and the holding of meetings and social events.

(74) *Communications service*: Establishments engaged in the provision of television and film production, broadcasting, and other information relay services accomplished through the use of electronic and telephone mechanisms; excluding, however, facilities covered by section 59-84 (telecommunication facilities), and section 59-2(309) Utility, major impact. Typical uses include: television studios; television and film production studios; radio broadcasting studios; telecommunication or telecommuting service centers; or cable services.

(75) *Community or senior center or recreational facility*: A building, together with lawful accessory buildings and uses, used for recreational and cultural activities and not operated for profit; or swimming pools or tennis courts, and as part of a facility with swimming pools and or tennis courts, an outdoor recreational facility, if authorized by the board of adjustment pursuant to section 59-54(3)m and not operated for profit. Need not be enclosed. Membership may be restricted to persons living in a specific geographical area but shall not be based upon race or creed. All fees assessed shall apply equally to all users. Shall have no outdoor public address system or any type of amplified music device. Also, a facility providing social, educational, health care and/or food services to residents over sixty (60) years of age, with no overnight accommodations provided.

(76) *Community corrections facility*: A structure which provides a residence for three (3) or more persons who have been placed in a community corrections program of correctional supervision, including a program to facilitate transition to a less-structured or independent residential arrangement. Such program shall be supervised directly or indirectly by an agency of the city, the state or the federal government; and residents of such facilities shall be those persons placed in the community corrections program by the judicial or correctional departments of the city, the state or the federal government. A community corrections facility shall be considered a large residential care use.

(77) *Completely enclosed structure*: A building enclosed by a permanent roof and by solid exterior walls pierced only by windows and customary entrance and exit doors.

(78) *Concealed light source*: An artificial light intended to illuminate the face of a sign, which light is shielded from public view and from adjoining zone lots.

(79) *Concrete, asphalt, and rock crushing facility*: A facility in which the principal activity is performed in an open area where concrete, asphalt, rock, brick, cement, or other similar paving or building materials are crushed, ground, pulverized, bought, sold, exchanged, stored, mixed, packed, disassembled, or handled.

(80) *Conference center, meeting hall*: A facility which provides meeting halls, trade centers, merchandise marts, or convention centers for training and other gatherings for large numbers of people for similar functions; may be developed separately or in combination with another permitted use.

(81) *Consumer service, large scale*: Establishments of more than thirty thousand (30,000) square feet of gross floor area primarily engaged in providing a service(s) to individuals such as a beauty and/or barbershop, a dry-cleaning establishment, or computer services. Consumer services, large scale includes the following list of uses

(227) *Recycling plant, scrap processor*: A facility at which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal and aluminum cans; waste oil; iron and steel scrap; rubber; and/or other products are recycled and treated to return such products to a condition in which they may again be used for production. This definition includes, but is not limited to, all uses in the following SIC group:

5093 Scrap and waste materials.

(228) *Rental room*: A room rented for short-term or permanent occupancy, offered to the public for compensation and which may contain facilities for cooking.

(229) *Repair service, consumer*: Establishments engaged in the provision of repair services to consumers and households; excluding, however, the repair of vehicles and related equipment. Typical uses include appliance repair or musical instrument repair businesses. This definition includes all uses in the following SIC groups:

725 Shoe repair and shoeshine parlors;

762 Electrical repair shops;

763 Watch, clock, and jewelry repair;

764 Reupholstery and furniture repair;

7699 Uses from SIC 7699 primarily engaged in providing repair and other services to individuals including repair of personal use property such as cameras, musical instruments, bicycles, and other services, including locksmiths and custom picture framing.

(230) *Residence for older adults*: A single unit dwelling or multi-unit dwelling housing a number of unrelated mobile older adults (individuals fifty-five (55) or more years of age) in excess of the number of unrelated persons allowed per dwelling unit, receiving fewer services than a special care home. A residence for older adults shall not be considered a residential care use.

(231) *Residential, institutional/special*: Parish house, abbey, convent, monastery, priory or other similar residence for clergy, or institution of religious training, consular residence, residence for the employees, members or guests of a nonprofit corporation or association organized for a religious or charitable purpose.

(232) *Residential accommodations*: Any building or part of a building used or intended to be used for sleeping accommodations by a person or group of persons. Other housekeeping facilities may be provided.

(233) *Residential care use, large*: A residential structure which is the primary residence of nine (9) or more persons, a shelter for the homeless of any size, or a community corrections facility of any size. This use shall not include residence for older adults, nursing home, rooming and/or boarding house, safehouse or a residential structure containing residents whose principal form of support is financial assistance.

(234) *Residential care use, small*: A residential structure which is the primary residence of eight (8) or fewer persons, but housing a number of unrelated persons in excess of the number of unrelated persons allowed per dwelling unit in the zone district or transitional housing of any size. This use shall not include a residence for older adults, community corrections facility, shelter for the homeless, rooming and/or boarding house, nursing home, safehouse or large special care home.

(235) *Residential district*: Any RS-4, R-0, R-1, R-2, R-2-A, R-2-B, R-3, R-3-X, R-4, R-4-X, R-5, R-MU-20, R-MU-30 or R-X district.

(Ord. No. 244-07, § 1, eff. 6-8-07)

(236) *Residential occupancy*: Any building or part of a building in which a person or group of persons are provided with sleeping accommodations. Other housekeeping accommodations may also be provided.

(237) *Residential structure*: Any building or part of a building constructed with or as sleeping accommodations for a person or group of persons. Other housekeeping accommodations also may be provided.

(238) *Retail*: Sale to the ultimate consumer for direct consumption or use and not for resale.

(239) *Retail food establishment, mobile*: Readily movable motorized-wheeled vehicle designed and equipped to serve food or towed-wheeled vehicle designed and equipped to serve food. This definition shall not apply to uses which operate for less than thirty (30) consecutive minutes at each separate location.

(240) *Retail, service, repair, consumer, large scale*: Establishments of more than thirty thousand (30,000) square feet of gross floor area engaged in the sale or rental of goods at retail, engaged in providing a service(s) to individuals, and/or engaged in the provision of repair services to consumers and households. This category includes all uses listed under retail, service, repair, small scale, as well as department stores, warehouse clubs and superstores; limited to items which may be sold by any other use in this list. Repair, rental and servicing is limited to any article, except automobiles, trucks and trailers, the sale of which article is permitted in the B-3 district. This category excludes animal sales or service; building and garden materials, supplies, sales or rental; food sales or markets; and motor vehicle and related equipment sales, leasing, rental, or repair; as well as those uses listed under retail, service, repair, special.

This use includes any use from the following list of uses, or any similar use, as determined by the zoning administrator:

523 Paint, glass, and wallpaper stores;

53 General merchandise stores;

553 Auto and home supply stores;

56 Apparel and accessory stores;

572 Household appliance stores;

573 Radio, television, and computer stores;

593 Used merchandise stores;

594 Miscellaneous shopping goods stores;

599 Retail stores, except for the retail sale of fireworks.

Including uses from NAICS 812 except 8122, mortuaries and cemeteries;

81233 Industrial launderers and linen supply; 81291, pet care services; and

81293 Parking lots and garages;

7212 Garment pressing and agents for laundries and drycleaners;

7215 Coin-operated laundries and cleaning.

725 Shoe repair and shoeshine parlors;

762 Electrical repair shops;

*Den var*

## **DIVISION 2. USES ALLOWED IN ALL DISTRICTS UNLESS RESTRICTED BY SPECIAL LIMITATIONS**

### **Sec. 59-80. Generally.**

This division applies to uses allowed in all districts, unless otherwise restricted.

(Ord. No. 361-03, § 3, eff. 5-23-03)

### **Sec. 59-81. Temporary structures, yards or uses related to construction activities.**

#### **(a) *Building or yard for construction materials.***

(1) Upon application to and issuance by the department of zoning administration of a permit therefor, a temporary building or yard for construction materials, which is the storage of equipment and/or excavated materials, both incidental and necessary to a construction project, may be operated in all districts except the Platte River Valley District (PRV), where special limitations apply, subject to the following limitations. Each permit shall specify the location of the building and/or yard and the location of the permitted operation. Construction materials and/or equipment and/or excavated materials shall be stored a minimum of one hundred (100) feet from a residential use within a residential structure. This spacing requirement may be reduced if concurrence is obtained from the residents living on zone lots within one hundred (100) feet of and abutting to the proposed site. Such materials and/or equipment shall be screened from the view of abutting residents to the maximum extent possible as determined by the zoning administrator; providing, however that no screening fence or wall shall be required that is taller than eight (8) feet. Such materials shall be piled no higher than twenty (20) feet above grade and any piles above four (4) feet in height shall be protected by a seven (7) foot high security fence with controlled access. A temporary building shall comply with the building setback requirements of the zone district in which it is located.

(2) Applicants shall notify abutting property owners, residents and/or business operators regarding the proposed use and shall provide zoning administration with evidence of such notification. If the project involves a major amount of construction within the public right-of-way, the applicant shall submit to the administration a copy of the public coordination plan as required by the public works department. Every such permit shall be valid for a period of not more than twelve (12) calendar months and shall not be renewed for more than three (3) successive periods at the same location; however, site cleanup shall be completed within thirty (30) days after completion of the project, regardless of the length of the permit. Need not be enclosed.

(b) *Fence for demolition or construction work.* Notwithstanding other limitations on fence heights in setback areas, a six (6) foot high security fence may be installed around the boundary of a zone lot where some type of demolition or construction is to occur. Each permit shall be valid for six (6) months and shall not be renewed for more than two (2) successive periods.

(c) *Noncommercial concrete batching plant, both incidental and necessary to construction in the zoning district.* Each permit shall specify the location of the plant and the area, within the same zone district, of the permitted operation, no part of which area shall be a distance of more than two (2) miles from the plant. Each such permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than six (6) successive periods at

the same location. These plants are not permitted in the RS-4, R-0, R-X or B-4 zone districts.

(d) *Temporary construction office needed for a construction project.* Each permit shall be valid for six (6) months and shall not be renewed for more than two (2) successive periods.

(e) *Concrete, asphalt, and rock crushing facility.*

(1) Upon application to and issuance by the department of zoning administration of a permit therefor, a concrete, asphalt, and rock crushing facility both incidental and necessary to a construction or demolition project, may be operated in all districts.

(2) Equipment and/or excavated materials shall be stored a minimum of one hundred (100) feet from a residential use within a residential structure. This spacing requirement may be reduced if concurrence is obtained from the residents living on zone lots within one hundred (100) feet of and abutting the proposed site. Such materials and/or equipment shall be screened from the view of abutting residents to the maximum extent possible as determined by the zoning administrator; providing, however, that no screening fence or wall shall be required in excess of eight (8) feet in height. Such materials shall be piled no higher than twenty (20) feet above grade and any piles above four (4) feet in height shall be protected by a seven-foot high security fence with controlled access. Any temporary buildings shall comply with the building setback requirements of the zone district in which they are located.

(3) Applicants shall notify abutting property owners, residents and/or business operators regarding the proposed use and shall provide zoning administration with evidence of such notification. If the project involves a major amount of demolition or construction within the public right-of-way, the applicant shall submit to the zoning administration a copy of the public coordination plan as required by the public works department.

(4) Each permit shall be valid for a period of not more than twelve (12) calendar months and shall not be renewed for more than ten (10) successive periods at the same location.

(5) Site cleanup, shall be completed within thirty (30) days after completion of the project, regardless of the length of the permit.

(Ord. No. 361-03, § 3, eff. 5-23-03)

## **Sec. 59-82. Residential care uses.**

(a) Residential care uses, large or small, may be established in all zone districts unless limited by the special requirements of sections 59-82(d)(4) and (5) and 59-82(e), upon review and approval according to the procedures and criteria described herein.

(b) Statement of intent: The intent of this section is as follows:

(1) To develop zoning regulations applicable to housing for special populations that are humane, equitable and enforceable through the regulations of institutions and facilities only, and not individuals;

(2) To support and reinforce the viability and continuation of neighborhoods and communities that provide healthy environments for all their residents;

(3) To prevent the "institutionalization" of residential neighborhoods by concentrating residential care uses so as to allow all residents, including the special populations, to reap the benefits of residential surroundings;

(4) To increase locational opportunities for critically needed residential care facilities, thereby helping to integrate special populations into the mainstream of society;



(5) To comply with the principles, policies and regulations of federal and state fair housing legislation;

(6) To establish an ongoing, effective process of communication between local neighborhood residents, the operators of residential care facilities and city agencies which regulate such facilities;

(7) To encourage and coordinate the use of common categories and definitions of residential care facilities for special populations by the regulatory city agencies, as well as by all involved licensing agencies;

(8) To promote the dispersing of facilities and beds for special populations thereby preventing individuals from being forced into neighborhoods with concentrations of treatment facilities and beds and thus perpetuating isolation resulting from institutionalization.

(c) Residential care use, small.

(1) Upon the submittal of a completed application for a small residential care use, the zoning administrator shall, within five (5) days of receipt of the completed application, send the application and the name, address and telephone number of a staff member of the applicant and the operator, to those neighborhood organizations registered according to section 12-94, whose boundaries encompass or are within seven hundred (700) feet of the proposed residential care use, to the appropriate city council members and to city agencies as provided for in section 59-82(d)(2) below.

(2) Interested persons may submit written comments to the zoning administrator within forty-five (45) days of receipt of the application by the city. Additional time for comment, not to exceed ten (10) days, may be granted by the zoning administrator upon a showing of good cause. If requested within twenty (20) days of receipt by the city of the completed application by an appropriate city council member or the registered neighborhood organization, the zoning administrator shall facilitate a meeting among the council member, officers of the registered neighborhood organization, the applicant and the operator to discuss the application. The meeting shall be held prior to expiration of the original forty-five-day comment period.

(3) The city agencies shall evaluate the application on the basis of the criteria listed in this section 59-82(c)(3), and shall submit recommendations to the zoning administrator no later than forty-five (45) days after receipt of the application by the city. If no recommendations are received from the city agencies within forty-five (45) days, the recommendations shall be considered to be favorable.

(4) Within fifteen (15) days after receipt of the recommendation, the zoning administrator shall issue, issue with conditions, or deny the permit after consideration of the application, city agency recommendations, comments received during the comment period and the following criteria:

- a. That the applicant is the owner or has the written approval of the owner of the property;
- b. That the applicant and the operator have obtained or will obtain upon granting of the permit any licenses or certifications required by the state and/or the city;
- c. That there is adequate parking for the proposed use;
- d. That any proposed exterior alterations or additions do not alter the character of the surrounding neighborhood;
- e. That locating the proposed use in the neighborhood shall not substantially or

permanently injure the appropriate use of nearby conforming property, or shall not cause or add to the institutionalization of residential neighborhoods which would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.

(5) Upon issuance of a permit for a small residential care use, the applicant and the operator shall only be required to comply with sections 59-82(d)(4)b., 59-82(d)(4)c., 59-82(d)(4)d., 59-82(e)(1), 59-82(e)(2), 59-82(e)(4), 59-82(e)(5) and 59-82(e)(7).

(6) No conditions on the number of staff may be placed in the permit for transitional housing except for a condition requiring at least one (1) staff person on-site. Notice of the decision of the zoning administrator shall be sent to the applicant, appropriate city council members, appropriate registered neighborhood organizations and other interested parties. Within thirty (30) days after occupying the structure, the operator shall notify all neighbors within two hundred (200) feet of the facility that the facility has opened and the name and telephone number of a staff member of the operator designated as a contact person.

(d) Residential care use, large.

(1) Application and neighborhood notification.

a. *Application.* Prior to filing an application for a large residential care use, the applicant shall meet with the department of zoning administration to discuss procedures and requirements. Applications shall be submitted in the format required by the department of zoning administration.

b. *Notice.* Within ten (10) days of receipt of a completed application for a large residential care use, the zoning administrator shall cause an informational packet to be sent to the appropriate city council members and those neighborhood organizations registered according to section 12-94, whose boundaries encompass or are within seven hundred (700) feet of the proposed use. Such informational packet shall include a copy of the completed application; a detailed explanation of applicant's and operator's experience; the facility's operational plan as set forth by the operator; the name, address and telephone number of a staff member of the applicant and operator designated as the contact person; a copy of the residential care use handbook; a summary of licensing procedures required for the proposed facility; notice of the time and place of the informational neighborhood meeting; and information concerning when and where written comments may be submitted.

c. *Residential care use handbook.* The residential care use handbook shall be prepared by the department of zoning administration, and the cost of its preparation and reproduction shall be covered by the permit fees paid by applicants for residential care uses. The handbook shall fully and carefully describe the rights of the neighbors. It shall explain the rights, responsibilities, and accountability of the city, the applicant, the operator, the residents of the facility, the registered neighborhood organization and the neighbors. It shall clearly explain the application process, the purpose and procedure for the neighborhood informational meeting, and the process for endorsing the terms of this section of the Code and for obtaining a permit. The handbook shall explain the procedure by which neighbors may file complaints and the procedure by which the city must handle complaints.

d. *Meeting.* The department of zoning administration shall ensure that the informational neighborhood meeting is held between twenty-five (25) and forty-five (45) days after the filing of the completed application. At least ten (10) days prior to the informational neighborhood meeting, the department of zoning administration shall cause a notice of such meeting to be posted on the property.

At least seven (7) days prior to such meeting, the applicant shall distribute written notices about the meeting to residents, businesses, and owners of property within two hundred (200) feet of the proposed facility. Residents of multi-unit dwellings may be notified by posting the meeting notice in a prominent communal location with the approval of the building manager. The meeting shall be held at an appropriate location approved by the department of zoning administration. The city shall facilitate the meeting. The purpose of the meeting is for the applicant and the operator to provide information and answer questions, and to obtain comments and information from interested parties concerning the proposed facility and its operation prior to determining whether the proposed facility complies with the requirements of this section of the Code. The informational neighborhood meeting shall be attended by appropriate city staff, the applicant and the operator. The applicant and the operator shall each designate a qualified individual to receive questions and concerns from interested neighbors and shall establish a process, if requested by nearby residents and businesses, which allows for initial and continuing exchange of information and comment regarding the operation of the facility.

e. *Timing.* Following the submittal of the completed application, a minimum of fifty-five (55) days shall transpire during which no permit shall be approved or denied, unless the zoning administrator determines that all the required review, including the neighborhood response, is completed prior to fifty-five (55) days.

(2) *Review by the city.* Upon receipt of a completed application for a large residential care use, the zoning administrator shall forward the application to appropriate city agencies including the planning office. Such city agencies shall evaluate the proposal on the basis of the criteria listed in section 59-82(d)(3) below and shall submit to the zoning administrator no later than forty-five (45) days after the receipt of the application by the city. If no recommendations are received within forty-five (45) days the recommendations shall be deemed favorable.

(3) *Permit.* Within fifteen (15) days after the receipt of the city agencies' recommendations, the zoning administrator shall issue, issue with conditions, or deny the permit after consideration of the application, information received from the informational meeting, any written comments submitted and the agencies' recommendations. No permit for a large residential care use shall be approved unless the zoning administrator finds that all of the following criteria are satisfied:

- a. That the applicant is the owner or has written approval of the owner of the property;
- b. That the applicant and the owner have obtained or will obtain upon granting of the permit any licenses or certification required by the state and/or the city;
- c. That the program and operational plan will be approved by a licensing agency appropriate to the special population being served in the facility;
- d. That the applicant and the operator will provide adequate measures for safeguarding the public and the facility residents. Such measures shall be appropriate to the special population including intake screening, supervision and security;
- e. That the proposed use will not substantially or permanently injure the appropriate use of nearby conforming property;
- f. That the number of beds in the proposed facility, in combination with the number of existing correctional institution and residential care use beds within the affected area, regardless of compliance with the spacing and density requirements set forth in section 59-82(d)(4)a. below, shall not substantially or

permanently injure the neighborhood or shall not cause or add to the institutionalization of residential neighborhoods which would prevent all residents, including the special populations, from being able to reap the benefits of residential surroundings.

g. That the size and architectural style of new structures or additions to existing structures located in a residential zone shall not be substantially dissimilar from other structures in the surrounding residential neighborhood and shall comply with all other requirements of the district in which it is located;

h. That the applicant and the operator will adequately maintain the building and grounds;

i. That the procedural steps set forth in section 59-82(d)(1) and 59-82(d)(2) above have been satisfied and that a report on the informational meeting, confirming the attendance of the qualified individual representing the applicant or operator and containing the comments of the public, has been transmitted to the zoning administrator;

j. That all applicable requirements of section 59-82 have been satisfied.

The decision of the zoning administrator shall be sent to the applicant, the appropriate city council members, appropriate registered neighborhood organizations, and other interested parties.

(4) *Spacing, density, site and other requirements.* All proposed large residential care uses shall satisfy the following minimum requirements unless specifically exempt by other provisions herein. Provided, however, that the zoning administrator may approve or deny the permit for a large residential care use in a location in violation of the spacing and density regulations of subsections 59-82(d)(4)a.1. and 59-82(d)(4)a.2. below upon a determination that the spacing violation is less than ten (10) percent of the required spacing and that locating the proposed use will not substantially or permanently injure the neighborhood. Provided, further, that the administrator may require up to two hundred (200) feet of additional spacing between large residential care uses in impacted neighborhoods. Impacted neighborhoods for the purpose of this subsection shall be those neighborhoods that have more residential care uses within their boundaries than the city-wide average number per neighborhood. The department of zoning administration shall keep records of those neighborhoods that are impacted. All existing large residential care uses, any existing PUD zone district used for a large residential care use and any church containing a shelter which exceeds the limits of section 59-2 (66) shall be counted when the following spacing and density requirements are applied:

a. *Spacing and density regulations.*

1. A large residential care use shall be a minimum of two thousand (2,000) feet from another such use; and

2. No more than two (2) other such uses shall exist within a four thousand (4,000) foot radius measured from the proposed use;

b. *Minimum lot dimensions.* The proposed use shall have a minimum lot size of six thousand (6,000) square feet and a minimum lot width of fifty (50) feet.

c. *Required off-street parking.* The proposed use shall provide one (1) off-street parking space for each member of the staff on duty unless the zoning administrator modifies this requirement after consideration of all pertinent factors including problems of parking congestion on abutting streets and physical constraints on the ability to comply.

d. *Limitations on external effects.* Such use shall comply with the limitations on external effects as established for uses by right in the district in which it is

located.

(5) *Special requirements.* Certain large residential care uses shall be subject to the following special requirements. In case of conflict with the requirements of section 59-82 (d)(4) above, the provisions of this subsection shall apply:

a. *Large residential care use:* In the RS-4, R-0, R-1, R-X, R-2, R-2-A and R-2-B zone districts, large residential care uses, other than a community corrections facility or a shelter for the homeless, shall be located only in a structure existing on May 24, 1993, and shall be limited to a maximum number of twenty (20) residents. Such structure shall not be enlarged as long as it is used for a large residential care use. In the R-3, R-3-X and R-4 zone districts, large residential care uses, other than a community corrections facility or a shelter for the homeless, shall be limited to a maximum of forty (40) residents.



b. *Community corrections facility.*

1. Permitted location. This facility shall be allowed only in the B-5, B-7, PRV, I-0, I-1 and I-2 zone districts; and shall be located more than fifteen hundred (1,500) feet from a school meeting all requirements of the compulsory education laws of the state and more [than] fifteen hundred (1,500) feet from a residential zone district; and shall be located more than one thousand (1,000) feet from any liquor store, any drugstore licensed to sell package liquors, or any retail package liquor business.

2. The proposed number of residents shall not exceed one (1) person per two hundred (200) square feet of gross floor area with a maximum of forty (40) residents in the permitted zone districts; provided, however, if a proposed facility is located in the I-1 or I-2 zone districts, such facility may have up to sixty (60) residents.

c. *Shelter for the homeless.*

1. Permitted location. Shelters for the homeless shall be allowed only in the C-MU-20, R-MU-30, C-MU-30, T-MU-30, R-3, R-4, R-5, B-A-1, B-3, B-A-3, B-4, B-5, B-7, B-8, MS-1, MS-2, MS-3, I-0, I-1, I-2 and O-1 zone districts.

(Ord. No. 660-05, § 2, eff. 9-16-05)

2. Number of beds. The number of beds in the shelter shall not exceed two hundred (200). Notwithstanding the preceding sentence, for shelters having a zoning permit as of January 1, 2005 allowing two hundred (200) beds or more, the maximum number of beds in the shelter shall not exceed three hundred and fifty (350). There shall be no more than nine hundred and fifty (950) beds in permanent homeless shelters in any council district.

3. Shelters allowed in churches or buildings owned by nonprofit corporations or governmental entities.

(i) Shelters operated within and by a church need not comply with the provisions of this subsection provided the following limitation is satisfied. Such shelter may be operated for up to one hundred twenty (120) days in either consecutive or nonconsecutive order per calendar year with any number of residents, or it may be operated throughout the entire year with one (1) of the following: a maximum of eight (8) residents or any number of persons bearing to each other a relationship as defined in section 59-2(96), single unit dwelling. If such limitation is

exceeded, the shelter must comply only with the requirements of section 59-82(d)(4)a., spacing and density regulations, and need not comply with any other requirements of section 59-82, residential care uses.

ii. Temporary shelters operated in buildings owned by nonprofit corporations or by governmental entities need not comply with the provisions of this subsection provided the following limitation is satisfied. The zoning administrator shall have the power to issue a cease and desist order or otherwise close temporary shelters not meeting these limitations:

I. Such temporary shelter may be operated for up to one hundred and twenty (120) days in either consecutive or nonconsecutive order per calendar year with a maximum of one hundred (100) residents. If such limitation is exceeded, the temporary shelter must comply only with the requirements of section 59-82(d)(4)a., spacing and density regulations, and need not comply with any other requirements of section 59-82, residential care uses.

II. Prior to opening a temporary shelter in buildings owned by non-profit corporations or by governmental entities, the operator of the temporary shelter shall submit to the zoning administrator evidence (A) that the Denver Department of Human Services is involved in the proposed temporary shelter; (B) that a public meeting relating to opening the temporary shelter was held; (C) that at least seven (7) days prior to the public meeting, notice of such public meeting was given to those neighborhood organizations registered according to section 12-94 whose boundaries encompass or are within seven hundred (700) feet of the proposed use and to the city council member in which the proposed temporary shelter will be located, and flyers announcing the public meeting were distributed at least three (3) days prior to such public meeting to all properties within three (3) blocks of the proposed temporary shelter; and (D) that a community oversight committee has been created, consisting of the council member in whose district the proposed temporary shelter is located and at least four (4) persons who reside within one thousand five hundred (1,500) feet of the proposed temporary shelter, to address neighborhood issues relating to the ongoing operations of the temporary shelter. The community oversight committee may encourage appropriate parties to enter into a community agreement to address such issues.

4. Spacing required from a school. Proposed shelters for the homeless shall be located more than five hundred (500) feet from a school meeting all the requirements of the compulsory education laws of the state.

5. Applications for a permit for a shelter shall contain information addressing the following matters:

- i. Maximum resident capacity;
- ii. Characteristics of the client group;

- iii. Accessibility of the site to other services and facilities which are needed by residents of the proposed shelters;
- iv. General hours of operation;
- v. Services provided;
- vi. The adequacy of off-street parking to serve the staff and residents, such as parking to be located either on the site and/or nearby sites;
- vii. If a new building is to be constructed, the compatibility of its proposed architectural characteristics and site design to the surrounding neighborhood;
- viii. The availability of restroom facilities serving the shelter residents while the shelter is closed including, but not limited to, restroom facilities provided by the city;
- ix. The placement and supervision of waiting areas so that the operation of the shelter should not normally create obstructions or problems in the use of adjacent public rights-of-way;
- x. Evidence that the proposed shelter for the homeless will comply with the limitations on external effects as established for uses by right in the district in which it is to be located; and
- xi. Other characteristics of the operation which the applicant may deem to be of significance.

6. No permit shall be approved unless the zoning administrator finds that the proposed shelter will not substantially or permanently injure the appropriate use of conforming residential properties located within five hundred (500) feet of the proposed use. Evidence of such injury shall clearly establish the anticipated specific problems attributed to residents of the proposed shelter for the homeless while in or around the shelter as distinct from the general problems attributed to persons using or passing through the subject area.

7. Except for an increase in the number of beds up to three hundred and fifty (350), pursuant to section 59-82(d)(5)c.2., and notwithstanding the restriction of section 59-82(e)(4) and 59-82(e)(5) below, the permanent increase in the number of shelter residents or in the amount of floor area of such shelter exceeding ten (10) percent shall require the approval of a use permit according to the procedure established in section 59-82(d) above. In reviewing requests for such increases, the review committee and the zoning administrator shall consider the matters listed in section 59-82(d) above.

8. The zoning administrator has the authority to suspend the terms of this section 59-82(d)(5)c. in emergency, life threatening situations as defined by rules and regulations promulgated by the zoning administrator.

9. All structures occupied by a homeless shelter shall comply with all Denver building code, zoning code and other regulations.

(e) *Administration.* All residential care uses shall comply with the following provisions, except as otherwise provided for herein:

- (1) *Residential care use/neighborhood communication and enforcement.* The applicant or operator of a residential care use shall designate a staff member who shall be

available on a continuous basis to receive questions and concerns from interested neighbors. Any issues not satisfactorily resolved through the applicant and facility staff shall be reported to the zoning administrator. The zoning administrator shall promptly notify all registered neighborhood organizations whose boundaries encompass the facility, the applicant, and the facility of the complaint; promptly investigate any complaint; and, if necessary, facilitate a meeting with the applicant, the operator and the complainant no later than forty-five (45) days after receipt of the complaint. The department of zoning administration shall notify the applicant, the operator and the complainant of the result of the investigation and any resolution of the issue. If the issue cannot be resolved at the meeting and if the complaint involves a violation of this section of the Code or any conditions placed on the permit, then the zoning administrator shall either issue a cease and desist order, issue a summons and complaint into court, or take other appropriate action. The zoning administrator shall also forward the complaint to the appropriate licensing and other governmental agencies. The results of the agency investigations shall be forwarded to the zoning administrator, the complainant and the registered neighborhood organization.

(2) *Biennial renewal of the permit.* Every permit for a residential care use authorized herein shall be effective for a period of two (2) years from the date of authorization, such permit to be renewable biennially by the department of zoning administration. A notice shall be sent, as provided under section 12-94, registration and notification of neighborhood organizations, and appropriate city council members sixty (60) days prior to the renewal date. Such notification shall solicit comments regarding the operation of the facility. If the zoning administrator determines that the above notification will cause a danger to residents in certain care situations, the zoning administrator may waive the notification requirement. The renewal of each permit shall be accomplished upon a finding by the zoning administrator that all conditions imposed on the use have been complied with, and that the facility will not substantially or permanently injure the appropriate use of nearby conforming property.

(3) *Continuation of certain existing uses.*

a. An institution or any other use operating as a residential care use and existing as of April 1, 1993, shall be classified as a legal, nonconforming use and may continue its operation providing it has a valid zoning permit or has applied for a zoning permit by a date one hundred twenty (120) days after May 24, 1993. Such legal, nonconforming use shall be issued a permit upon compliance with section 59-82(d)(4)d., limitations on external effects, only and shall not be required to comply with any other provisions of section 59-82. This provision, however, does not apply to uses in a planned unit development zone district or to a use under adverse administrative action by the city as of April 1, 1993.

b. Any church containing an existing shelter for the homeless as of May 24, 1993, shall notify the department of zoning administration within one hundred twenty (120) days of May 24, 1993.

(4) Any exterior additions or exterior structural modifications which increase the gross floor area of an existing structure shall require the approval of a use permit according to the procedure established in section 59-82(d)(1) and 59-82(d)(2) above.

(5) Any increase in the number of permitted residents shall require the approval of a use permit according to the procedure established in this section 59-82.

(6) Any change in the type of resident of the residential care use either existing as of May 24, 1993, or approved under the provisions of this section shall meet all applicable requirements except the spacing and density requirements set forth in section 59-82(d)(4)a.

(7) Termination.



a. Any of the following shall provide a basis to terminate the right to operate as a residential care use:

1. Failure to comply with the conditions of this section, including the failure to obtain a permit.
2. Changing one (1) type of a residential care use to another type of residential care use without complying with the requirements herein.
3. The vacancy for a period of twelve (12) months of a structure or that portion of a structure occupied by a residential care use.
4. Facilities which begin operations after the expiration of the one hundred twenty (120) day period following May 24, 1993, without applying for a permit, shall be terminated and the operator may not apply for a permit for that site for a period of one (1) year after such termination.

b. Destruction of the structure containing the use shall not terminate a nonconforming residential care use:

(Ord. No. 361-03, § 3, eff. 5-23-03; Ord. No. 694-05, § 2, eff. 9-30-05)

### **Sec. 59-83. Certain power, gas and other facilities.**

(a) Above-ground facilities, including high-voltage transmission lines (one hundred fifteen (115) kilovolts or more), electric substations, gas metering stations and other similar facilities are permitted as a conditional use, subject to the procedure listed below. The expansion of transmission line capacity shall not require a zoning permit provided such expansion can be accomplished within an existing right-of-way or with existing structures or poles.

(b) Notification: Upon the submittal of an application the zoning office shall notify all registered neighborhood organizations whose boundaries fall within two hundred (200) feet of the proposed facility, and all council members in whose districts the proposed facility would be located. Such notification shall be made within ten (10) days after receipt of an application and shall solicit written comments regarding the proposed facility. Within this ten-day period the following additional actions shall be completed:

- (1) For transmission lines, the applicant shall place a notice, including a map of proposed transmission line routes, in a newspaper of general distribution.
- (2) For electric substations and similar facilities, a notice shall be posted for twenty-one (21) days on the property soliciting written comments from interested parties.

(c) Review process: The planning office shall evaluate the proposal and shall prepare a recommendation which incorporates a consideration for planning and urban design principles and the concerns of the public. Within thirty (30) days of the initial receipt of the application the planning office shall submit their recommendation to the manager of public works. The manager shall review the recommendation of the planning office and shall consider the planning and urban design principles and the concerns of the public. The manager shall advise the zoning administrator of his/her determination, and the administrator shall issue, issue with conditions or deny the zoning permit based on the manager's determination.

(Ord. No. 361-03, § 3, eff. 5-23-03)

### **Sec. 59-84. Telecommunications facilities.**

(a) The purpose of this section is to establish regulations for telecommunications facilities. The

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Chapter 26  
ARTICLE I. IN GENERAL

## DIVISION 1. GENERALLY

## Sec. 26-1. Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings:

(a) *Admit* or *Admission* means that the facility or any of its agents, volunteers, or employees has authorized, accepted, or permitted an offender to receive lodging along with treatment or supervision at or from the facility.

(b) *Board* means the Denver Board of Community Corrections.

(c) *Boarding home* means a residential structure operated by a person engaged in the business of operating a residential structure for the purpose of providing lodging for permanent occupancy and which makes no provision for cooking in any of the rooms occupied by residents. Meals, linens and housekeeping may be provided. No other personal services shall be provided.

(d) *Contract facility* means any nongovernmental residential facility for the treatment or supervision of offenders which is operated under a contract with the board.

(e) *Criminal corrective action* means any sentence, suspended sentence, probation, parole, work release, conditional release from prison, jail, or other correctional facilities, deferred judgment, deferred prosecution, criminal diversion program, or similar order, program, condition, or requirement imposed, arranged, or ordered by any referring agency resulting from any charge or conviction for any of the following criminal offenses:

- (1) Any crime set forth in title 18, article 3, (crimes against persons) Colorado Revised Statutes;
- (2) Any crime set forth in title 18, article 4, parts 1 (arson), 2 (burglary and related offenses), and 3 (robbery), Colorado Revised Statutes;
- (3) Any crime set forth in title 18, article 6, parts 3 (incest), 4 (wrongs to children), and 8 (domestic violence) Colorado Revised Statutes;
- (4) Harassment-stalking, Colorado Revised Statutes section 18-9-111;
- (5) Any crime set forth in title 18, article 12, (offenses related to firearms and weapons) Colorado Revised Statutes;
- (6) Denver Revised Municipal Code section 38-92 (assault); or
- (7) Any crime defined by the law of any state or city which is the substantial equivalent of any of the foregoing offenses.

(f) *Criminal offense* means any felony, misdemeanor, petty offense, municipal offense, or other criminal offense under the laws of the United States, any state or municipality.

(g) *Employee* means any person who performs any duty, task or service related to the supervision or treatment of any offender at or for the facility, including but not limited to the director of the facility and its case managers.

(h) *Engage in business* means one (1) or more activities which occupy time, attention, effort or

labor, whether or not performed for profit.

(i) *Facility* includes both private and contract nongovernmental facilities for the treatment or supervision of offenders.

(j) *Nongovernmental residential facility for the treatment or supervision of offenders* means any building, structure, real property, or other location or place not owned or operated by the United States, the state, or the city, providing lodging along with supervision or treatment for one (1) or more offenders.

(k) *Offender* means any adult who has been referred for lodging along with treatment or supervision by any referring agency as a result, condition, requirement, or term of any criminal corrective action.

(l) *Personal care boarding home* means a residential structure operated by a person engaged in the business of operating a residential structure for the purpose of providing to its residents, either directly or indirectly through a provider agreement, room and board, personal services, protective oversight, and social care due to impaired capacity of the resident to live independently, but such services shall not be to the extent that regular twenty-four-hour medical or nursing care is required. A personal care boarding home may be a residential care use under chapter 59 (zoning) of this Code.

(m) *Personal services* means, but is not limited to, the providing of individualized social supervision; a safe and sanitary environment that is free from physical harm; providing linens and housekeeping services; assistance with transportation whether by providing transportation or assisting in making arrangements for the transportation; or assistance with activities of daily living, but not to the extent that such assistance constitutes regular twenty-four-hour medical or nursing care.

(n) *Private facility* means any nongovernmental residential facility for the treatment or supervision of offenders which is not operated under a contract with the board.

(o) *Refer* means to commit or place an offender in a facility for lodging along with treatment or supervision as part of a criminal corrective action. The term also includes the act of ordering, directing, or sending an offender to a facility or ordering, directing, or requiring an offender to contact a facility for lodging along with treatment or supervision as part of a criminal corrective action. The term includes the act of providing an offender with the name, address, or phone number of the facility for the purpose of having the offender gain admission for lodging along with treatment or supervision as part of a criminal corrective action if the facility or the offender is required to report the offender's attendance, enrollment, performance, or completion of any treatment or supervision to the referring agency.

(p) *Referring agency* means any court, prison, jail, department of corrections, department of parole, department of probation, district attorney's office, city attorney's office, judge, probation officer, parole officer, diversion officer, prosecutor, or similar governmental body or officer which refers an offender to a facility for lodging along with treatment or supervision.

(q) *Supervise* or *supervision* means to monitor, evaluate, control, direct, refer, or supervise an offender's treatment, behavior, conduct, mental status, job attendance, job performance, court appearances, contact with referring agencies, community or public service, use of drugs or alcohol, contact with other persons, or an offender's other activities in or outside of the facility on or off the facility.

(r) *Tax exempt charitable organization* means any nonprofit corporation, association or other group which has been granted tax exemption by the United States Internal Revenue Service pursuant to the revisions of the Internal Revenue Code, Title 26 United States Code.

(s) *Treatment* means any one or more of the following: psychiatric or psychological testing, evaluation, analysis, therapy, counseling, or the prescription, administration, or monitoring of psychiatric medication; evaluation, testing, treatment, or counseling for drug or alcohol use,

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addiction, or dependency; sexual offender evaluation, testing, treatment, counseling or therapy; domestic violence evaluation, testing, treatment, counseling or therapy; and peer counseling of any kind. Treatment also includes the act of referring, organizing, planning, scheduling, providing space for, arranging, or transporting any offender for treatment.

(Ord. No. 376-97, § 1, 6-16-97; Ord. No. 368-00, § 2, 5-15-00; Ord. No. 565-01, § 1, 7-9-01)

**Cross references:** Definitions and rules of construction generally, § 1-2.

## **Sec. 26-2. Required licenses and fees.**

(a) *License.* Any person operating a boarding home, or a personal care boarding home, shall first obtain a license to operate such a facility from the director of excise and licenses pursuant to chapter 32 of this Code. A separate license shall be obtained for each such location and facility.

(b) *Application referrals.*

(1) Applications for a license to operate a boarding home, or personal care boarding home, as provided for in chapter 32 of this Code shall be forwarded to all appropriate city agencies, including but not limited to the department of environmental health, department of zoning administration, department of safety, division of community corrections, neighborhood inspection services, fire prevention bureau, building inspection division, and the wastewater division of the department of public works. Such city agencies shall investigate, inspect, and make recommendations to the director of excise and licenses as provided for in section 32-10 of this Code. Such agencies may recommend that conditions which are related to the intent of this article or other ordinances and rules and regulations and to the protection of the health and safety of the residents and employees of such home and the residents of the city be included in any license issued by the director of excise and licenses.

(2) No construction, modification or remodeling of any boarding home, or personal care boarding home, shall commence until such construction is approved by the building inspection division as being in compliance with the applicable rules and regulations adopted by the department of environmental health.

(c) *Fees.* Application and license fees shall be paid as prescribed in chapter 32 of this Code.

(d) *Provisional licenses.*

(1) Upon recommendation from the department of environmental health and payment of the fee established in section 32-54 of this Code, the director of excise and licenses may issue a provisional license to an applicant for the purpose of operating a personal care boarding home for a single ninety-day period.

(2) The department of environmental health may recommend issuance of a provisional license if:

a. The applicant is temporarily unable to conform to all the minimum standards of the department of environmental health's rules and regulations, except the issuance of a provisional license shall not be recommended if the operation of the facility will adversely affect the health, safety and welfare of the residents of such facility; and

b. The applicant has demonstrated to the department that the applicant is attempting to comply with the applicable rules and regulations.

(Ord. No. 376-97, § 1, 6-16-97; Ord. No. 368-00, § 2, 5-15-00; Ord. No. 565-01, § 1, 7-9-01)

**Sec. 26-3. Compliance with other regulations.**

Operators of boarding homes and personal care boarding homes, shall obtain a license for each such location and facility, comply with chapter 32 (licenses) and comply with all applicable ordinances and rules and regulations, including but not limited to this chapter, article II, chapter 27 (housing), chapter 59 (zoning) and article iii, chapter 23 (food service establishments) of this Code.

(Ord. No. 376-97, § 1, 6-16-97; Ord. No. 368-00, § 2, 5-15-00; Ord. No. 565-01, § 1, 7-9-01)

**Sec. 26-4. Unlawful activities.**

(a) It shall be unlawful for any person to operate a boarding home or personal care boarding home, without a license to operate such a facility from the director of excise and licenses. A separate license shall be obtained for each such location and facility.

(b) It shall be unlawful for any person to engage in the business of operating a boarding home or personal care boarding home, in violation of the terms, conditions, or restrictions of the license, any ordinance, or rules and regulations.

(c) It shall be unlawful for a business operating, and licensed, as a boarding home to accept, house or shelter persons needing personal services other than meals, linens and housekeeping for the resident thereof.

(d) It shall be unlawful for a business operating, and licensed, as a personal care boarding home to accept, house or shelter persons needing additional care or services not defined as personal services.

(Ord. No. 376-97, § 1, 6-16-97; Ord. No. 368-00, § 2, 5-15-00; Ord. No. 565-01, § 1, 7-9-01)

**Sec. 26-5. Rules and regulations; inspections; recommendations.**

In order to carry out the intent of this article and to protect the health and safety of those residents and employees of such homes and the citizens of the city, the department of environmental health may adopt from time to time rules and regulations pertaining to the requirements of sanitation, cleanliness, adequacy of facilities, equipment, structure, operation, personnel practices and regular inspection of boarding homes, and personal care boarding homes.

(Ord. No. 376-97, § 1, 6-16-97; Ord. No. 368-00, § 2, 5-15-00; Ord. No. 565-01, § 1, 7-9-01)

## **DIVISION 2. NONGOVERNMENTAL RESIDENTIAL FACILITIES FOR THE TREATMENT OR SUPERVISION OF OFFENDERS**

### **Sec. 26-15. Acts and omissions by certain persons administering a nongovernmental residential facility for the treatment or supervision of offenders.**

It shall be unlawful for any person administering, operating, managing, controlling, directing, or in charge of any nongovernmental residential facility for the treatment or supervision of offenders to:

- (a) Knowingly admit to the facility any offender whose admission to the facility or presence in Colorado has been rejected or disapproved by any state governmental authority;
- (b) Fail to immediately report the unauthorized absence of any admitted offender to the referring agency and the city police department; or
- (c) Operate or permit the operation of the facility by any employee in violation of section 26-16 or any other section of this Code.

(Ord. No. 368-00, § 3, 5-15-00; Ord. No. 565-01, § 2, 7-9-01)

### **Sec. 26-16. Operation of nongovernmental residential facilities for the treatment or supervision of offenders.**

#### **(a) General requirements.**

- (1) The facility shall designate in writing a Director who is responsible for the day to day management and operation of the facility. The director so designated shall sign the written designation accepting this responsibility. The director shall be responsible for execution of every duty imposed upon the facility, its employees and case managers under this article and sections 26-15 and 26-16. In the event that the designated director is discharged, resigns, or otherwise ceases to accept or perform the responsibilities of director, the facility shall name a new director, complete a new written designation, obtain the new director's signature accepting this responsibility, and provide the same in writing to the director of excise and licenses within thirty (30) days.
- (2) The facility shall obtain and maintain liability insurance covering injuries, damages, and losses to employees, offenders, and third persons caused by the acts or omissions of the facility's director or employees with liability limits not less than one hundred thousand dollars (\$100,000.00) per person and five hundred thousand dollars (\$500,000.00) per incident.
- (3) The facility shall audit each offender's file no later than sixty (60) days after admission and every six (6) months thereafter to ensure that every duty imposed under this article has been performed and all documentation required by this article is present in the offender's file. A similar audit of each offender's file shall be completed within thirty (30) days after the offender is discharged or expelled from the facility. All such audits shall be documented in the offender's file.
- (4) The facility shall require each parole department referring offenders to the facility to sign a written agreement stating that in the event that any offender referred by the referring agency is expelled from the facility, the referring agency shall either place the offender in another facility or take the offender into the referring agency's custody, and

that failure to do so will result in the facility refusing to accept into the facility any offenders referred by the referring agency in the future. A copy of each such signed agreement shall be kept in the policy and procedure manual. The facility shall require each referring agency, other than a parole department, referring offenders to the facility to sign a written agreement stating that in the event that any offender referred by the referring agency is expelled from the facility, the referring agency shall either place the offender in another facility or arrange for the offender to physically report to the probation officer, and that failure to do so will result in the facility refusing to accept into the facility any offenders referred by the referring agency in the future. A copy of each such signed agreement shall be kept in the policy and procedure manual.

(5) The facility shall be operated in accordance with its policy and procedure manual and this article.

(b) *Policy and procedure manual.* The facility shall assemble and maintain a written policy and procedure manual, physically present at the facility. The policy and procedure manual shall be reviewed at least annually by the governing body of the facility and updated. The policy and procedure manual shall not contain any provision which purports to eliminate, reduce, or alter any duty imposed under this article. The policy and procedure manual shall contain at least the following:

- (1) A copy of this article;
- (2) If the facility is operated by a limited partnership, corporation, non-profit corporation, not for profit corporation, limited liability company, or other entity, a copy of the documents creating the facility as a legal entity and providing for its governance (e.g. certificate of incorporation, articles of incorporation and bylaws);
- (3) A written designation of the individual who currently serves as director of the facility along with the director's signature accepting the responsibilities of director, and the director's current address and phone number;
- (4) A description of the purpose, philosophy, programs and services of the facility;
- (5) General operating procedures for the facility;
- (6) Procedures for at least semi-annual internal auditing and self-monitoring to ensure that the facility is complying with this article and the policy and procedure manual;
- (7) A requirement that all documentation be legible, accurate and systematically filed;
- (8) Written criteria for the acceptance or rejection of offenders to the facility;
- (9) Standards and procedures for the discipline and expulsion of offenders who commit crimes while placed in the facility, violate the facility's rules, do not reasonably respond to treatment, or whose behavior or mental status poses a substantial threat to the welfare of employees or others;
- (10) Procedures for dissemination of documentation concerning offenders to the offender's referring agency as required in this article;
- (11) Procedures for the accounting of all offenders and for contacting referring agencies when any offender is not accounted for;
- (12) Procedures for searches, including "pat" searches, room searches, vehicle searches, and personal effect searches, including a provision requiring all offenders to consent in writing to all such searches at the facility.
- (13) Procedures for systematically assessing newly admitted offenders as required in this article.
- (14) A procedure for assigning the case management of each offender to a single

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specific case manager within twenty-four (24) hours after the offender's admission to the facility as required in this article;

(15) A copy of the rules of conduct for offenders;

(16) An acknowledgment from each employee that he or she has reviewed the policy and procedure manual;

(17) Documentation showing that the policy and procedure manual has been reviewed and updated annually;

(18) Copies of insurance policies, certificates of insurance, or declaration pages from insurance policies of insurance required under this article.

(19) Procedures to ensure that any terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility, are obtained from the referring agency, placed in the offender's file, provided to the offender's case manager, and monitored for compliance;

(20) A copy of the written agreement with each parole department referring offenders to the facility stating that in the event that any offender referred by the parole department is expelled from the facility, the parole department shall either place the offender in another facility or take the offender into the parole department's custody, and that failure to do so will result in the facility refusing to accept into the facility any offenders referred by that parole department;

(21) A copy of the written agreement with each referring agency referring offenders to the facility, other than a parole department, stating that in the event that any offender referred by the referring agency is expelled from the facility, the referring agency shall either place the offender in another facility or arrange for the offender to physically report to the probation officer, and that failure to do so will result in the facility refusing to accept into the facility any offenders referred by the referring agency in the future. A copy of each such signed agreement shall be kept in the policy and procedure manual.

(22) Any other procedures the facility may adopt; and

(23) Any other documentation the facility may wish to file in its policy and procedure manual.

(c) *Rules of conduct for offenders.* The facility shall assemble and maintain a written set of rules of conduct for offenders, physically present at the facility, containing at least the following:

(1) A prohibition of any criminal offenses;

(2) A prohibition of any possession or use of any controlled substance, alcohol or other intoxicants (e.g. paint huffing);

(3) A curfew;

(4) A requirement that the offender account to employees on a daily basis for all time spent outside the facility;

(5) A prohibition against the possession or use of any weapon;

(6) A requirement that the offender cooperate with all employees of the facility, his or her referring agency, and all treatment and supervision providers;

(7) A requirement that the offender comply with the terms of the treatment plan, supervision plan, budget, and any terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility; and

(8) Any other rules that the facility may adopt.

(d) *Offender files.* The facility shall maintain a written file on each offender containing at least the following in a written, orderly, chronological and legible manner:

- (1) The offender's current sentence, probation, parole, diversion, deferred judgment, commitment, or other criminal corrective action;
- (2) Name, address, phone number of the referring agency;
- (3) Offender's written consent to searches by facility employees; a written release of all treatment, supervision, drug and alcohol monitoring, and all other offender information to facility employees, the facility's treatment and supervision providers, and the inspectors of the city department of safety, division of community corrections for purposes of evaluating the facility's program and determining compliance with this article; and a consent to alcohol and drug testing;
- (4) Written assignment of a specific case manager to the offender and assignment of replacement case managers, if any, as required in this article;
- (5) Records from the employment of the offender outside the facility, including name, address, and phone number of the employer, hours of employment, job duties, and contact persons at the offenders employment;
- (6) Assessment of offender as required in this article;
- (7) Treatment plan as required in this article;
- (8) Supervision plan as required in this article;
- (9) A record of any occasion on which the offender's presence in the facility or at a location authorized by the facility was not accounted for;
- (10) Reports from agencies and persons providing treatment and services to the offender;
- (11) Copies of incident reports, investigations and discipline of the offender;
- (12) Monthly reviews of the offender's progress;
- (13) Copies of correspondence, referral forms, or other documents related to the case;
- (14) Audits of the offender's file as required in this article;
- (15) Any other correspondence, form, notice, report, summary, or other document related to the offender;
- (16) Any terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility;
- (17) A copy of any notice to any referring agency required under this article stating that the offender has been expelled and demanding that the referring agency take action as required in the agreement with that referring agency.
- (18) Any other document required to be placed in the offender's file under this article.

(e) *Employees of the facility.*

- (1) The facility shall maintain written job descriptions for all employees of the facility including job title, minimum qualifications, responsibilities, duties, and salary ranges.
- (2) Before hiring any employee, the facility shall conduct a background investigation and document the same in the employee's files. The investigation shall verify job qualifications and check for prior criminal record.

(3) The facility shall not hire any employee who has a record for a felony conviction during the preceding five (5) years or who is then on any criminal corrective action, unless the facility first notifies the department of safety, division of community corrections in writing and the department of safety, division of community corrections approves the hiring of the employee in writing. Copies of these notices and approvals shall be kept in the employee's file.

(4) The facility shall conduct a performance evaluation on each employee at least annually.

(5) If any employee is arrested or charged with any criminal offense, other than traffic offenses carrying less than eight (8) points, the facility shall immediately notify in writing the department of safety, division of community corrections of the employee's name, duties and the pending charges. The facility shall provide the department of safety, division of community corrections with written updates on the status of the employee's criminal charges as requested by the department of safety, division of community corrections.

(6) All employees shall receive at least twenty (20) hours of formal or supervised "on the job" training, including documented review of the facility's policy and procedure manual before receiving an independent work assignment. In addition, all full time employees shall receive a minimum of forty (40) hours of job-related training annually. Fulfillment of these training requirements shall be documented in each employee's file.

(7) The facility shall hire and maintain on staff a sufficient number of case managers to maintain a ratio of at least one (1) full-time case manager for every twenty (20) offenders admitted to the facility. Case managers shall manage the treatment, supervision, budget, discipline, and perform all other duties required of case managers under this article. Case managers shall be physically present in the facility at least twenty-five (25) hours per week except when on leave. Case managers shall not be assigned administrative or other duties which interfere with their case management duties.

(8) No person shall be employed as a case manager or perform any of the duties of a case manager unless he or she meets one (1) or more of the following qualification requirements:

- (i) A bachelor's, master's or doctoral degree in social or behavioral sciences, criminal justice, or related fields;
- (ii) An associate's degree in social or behavioral sciences, criminal justice, or related fields and at least two (2) years of work experience in social work, criminal justice, or closely related fields;
- (iii) Four (4) years of work experience in social work, criminal justice, or closely related fields; or
- (iv) A level II or III state alcohol and drug abuse counselor certification if the primary treatment concern for all of the offenders assigned to the case manager is drug or alcohol abuse.

(9) The facility shall keep copies of all documents qualifying case managers under this article in each case manager's employee file.

(10) The facility shall at all times maintain employees or volunteers in charge of the facility and responsible for the operation of the facility in compliance with this, physically present and awake in the facility in the following numbers:

- (i) Facilities with a total offender population of seventy (70) or more: at least two (2);

(ii) Facilities with a total offender population of less than seventy (70): at least one (1).

(11) Every employee shall sign a written acknowledgment indicating that they have reviewed the policy and procedure manual. A copy of each such acknowledgement shall be filed in the policy and procedure manual and in the employee's file.

(12) The facility shall maintain an employee file for each employee. The file shall contain records of qualifications, applications, background investigations, dates of employment, training records, performance evaluations, commendations, disciplinary actions, and all other documentation required to be kept on employees under this article. All employee files shall be open and available to the department of safety, division of community corrections for the purpose of determining compliance with this article.

*(f) Evaluation, supervision, treatment, discipline, and expulsion of offenders.*

(1) Within twenty-four (24) hours of the date that each offender is admitted to the facility, the facility shall orient the offender to the facility by providing the offender with a copy of the rules of conduct for offenders, a written copy of any terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility, and a description of possible penalties and disciplinary actions that may be taken for violations of the rules of conduct for offenders, any terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility, or any criminal law. The offender will acknowledge receipt of this information by signing a form that records the date and time of the orientation and the employee providing the orientation. The acknowledgment form shall be placed in the offender's file.

(2) Within twenty-four (24) hours of the date that each offender is admitted, the facility shall assign a single, specific case manager to the offender. The offender's assigned case manager shall personally perform all duties required of case managers under this article. Assignment of a single, specific case manager shall be documented in the offender's file and in the case manager's assignment file. If a new case manager is assigned to the offender, this assignment shall also be documented in the offender's file and the case manager's assignment file.

(3) Within twenty-four (24) hours of the admission of each offender, the facility shall obtain from the offender a written consent to searches by facility employees; a written release of all treatment, supervision, drug and alcohol testing and monitoring, and all other offender information to facility employees, the facility's treatment and supervision providers, and the inspectors of the city department of safety, division of community corrections for purposes of evaluating the facility's program and determining compliance with this article; and a consent to alcohol and drug testing.

(4) The offender's assigned case manager shall personally:

(i) Within days of the date the offender is admitted to the facility, either:

(1) Obtain a written assessment of the offender's criminal risks, criminogenic needs, and responsivity to various supervision and treatment strategies from the referring agency using standardized instruments with recognized validity and reliability for assessing criminal risks and needs in the field of criminal corrections, identifying the offender's risk levels and prioritizing the individual offender's criminogenic needs for treatment and supervision; or

(2) Ensure that the facility conducts and completes such a written

assessment. A copy of the assessment shall be placed in the offender's file. However, in the event that the offender is on a criminal corrective action only for a misdemeanor or ordinance offense, the case manager need only obtain or prepare an informal written assessment of criminal risks.

- (ii) Within ten (10) days of the date the offender is admitted to the facility, either:
    - (1) Obtain a written treatment plan prepared by the referring agency stating what treatment the offender will receive while placed in the facility, who will provide the treatment, where the treatment will occur, the schedule for such treatment, and how progress in treatment will be measured or evaluated; or
    - (2) Ensure that the facility prepares such a written treatment plan for the offender. A copy of the treatment plan shall be placed in the offender's file.
  - (iii) Within ten (10) days of the date that the offender is admitted to the facility, either:
    - (1) Obtain a written supervision plan from the referring agency which specifies supervision approaches and methods, including measurable criteria of expected positive behavior and accomplishments and a time schedule for achievement; or
    - (2) Ensure that the facility prepares such a written supervision plan. A copy of the supervision plan shall be placed in the offender's file.
  - (iv) Review each offender's progress, performance and compliance under his or her treatment plan, supervision plan, budget, and any terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility, at least once every thirty (30) days following admission. Each such review and all revisions shall be documented and filed in each offender's file.
  - (v) Ensure that the offender actually receives the treatment specified in his or her treatment plan, the supervision specified in his or her supervision plan, manages his or her money according to his or her personal budget, and complies with the terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility.
  - (vi) Initiate disciplinary action or expulsion against any offender who violates criminal laws, rules of conduct for offenders, his or her treatment plan, supervision plan, any terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility, or whose behavior or mental status becomes a threat to the safety of the offender, employees, neighbors, co-workers or others.
- (5) The facility shall discipline or expel from the facility any offender who commits any crime while placed in the facility, violates the facility's rules of conduct for offenders, violates any term, condition, limitation, or requirement imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility, who does not reasonably respond to treatment, or whose behavior or mental status poses a substantial threat to the welfare of employees or others. Discipline or expulsion based upon commission of any crime, violation of the facility's rules of conduct for offenders, or

violation of any term, condition, limitation, or requirement imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility, shall be imposed within ten (10) days of the date any member of the facility employee learns of the violation. All investigations and discipline shall be documented in the offender's file.

(6) The facility shall expel any offender who refuses to consent to any search, refuses to release any information to the facility or any of its employees, treatment providers, or the inspectors of the city department of safety, division of community corrections for purposes of evaluating the facility's program and determining compliance with this article or who revokes his or her written consent to searches, releases of information, or drug and alcohol testing.

(7) If the facility expels an offender, the facility shall immediately inform the city police department and the offender's referring agency, by phone and in writing, that the offender has been expelled. In the event that the referring agency is a parole department, the facility shall immediately demand that the parole department either physically place the offender in another facility or physically take the offender into the parole department's custody. In the event that the referring agency is not a parole department, the facility shall immediately demand that the referring agency either place the offender in another facility or arrange for the offender to physically report to the probation officer. These notifications shall be documented in the offender's file. In the event that the referring agency is a parole department, the facility shall not inform the offender that he or she has been expelled from the facility until the parole department has taken physical custody of the offender or has physically placed the offender into another facility. In the event that the referring agency is a not a parole department, the facility shall not inform the offender that he or she has been expelled from the facility until the referring agency has either arranged to physically meet with the offender or the referring agency has physically placed the offender in another facility. The facility shall use reasonable efforts to hold the offender at the facility until the referring agency has performed these duties. In the event that the referring agency fails, neglects or refuses to perform these duties, the facility shall cease accepting any offenders referred by that referring agency.

(g) *Off-site offenders.* The facility shall not permit any offender to leave the physical premises of the facility for any purpose, for any period of time, including but not limited to absences for assessment, work, or treatment, in violation of any of the terms, conditions, limitations, or requirements imposed on the offender by the offender's referring agency, including but not limited to those pertaining to operation of a motor vehicle, and absence from the facility.

(h) *Providing documentation and notifications to referring agencies.*

(1) The facility shall provide the referring agency with copies of the following documents within five (5) days of the date the document is completed:

- (i) Assessment, if not obtained from the referring agency, but instead prepared by the facility;
- (ii) Treatment plan, if not obtained from the referring agency, but instead prepared by the facility;
- (iii) Supervision plan, if not obtained from the referring agency, but instead prepared by the facility;
- (iv) Offender's personal budget;
- (v) Monthly reports and progress reports on the offender;

(2) The facility shall notify an offender's referring agency in writing of the following within twenty-four (24) hours of its occurrence:

- (i) The offender is not present and cannot be accounted for at any head count;
- (ii) There is probable cause to believe that the offender has violated a criminal law, rules of conduct for offenders, or any term, condition, limitation, or requirement imposed on the offender by the offender's referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, and absence from the facility;
- (iii) The offender has been disciplined or expelled for any violation of criminal law, the rules of conduct for offenders, or the terms, conditions, limitations, or requirements imposed on the offender by the referring agency, including but not limited to those pertaining to drug and alcohol testing, operation of a motor vehicle, or absence from the facility;
- (iv) The offender's mental or behavioral status has deteriorated to the point where the offender is a danger to himself, employees, neighbors, co-workers or others;

(3) The facility shall document in the offender's file having provided the documents and notifications to referring agencies required in this section (h).

(i) *Disclosure and inspection of facilities.*

(1) The facility shall complete and provide the department of safety, division of community corrections, with an annual written report by no later than March 1 of each year stating:

- (a) The name, address, phone number of the facility;
- (b) The name, address and phone number of its director;
- (c) The maximum offender capacity of the facility; and
- (d) The facility's treatment programs, supervision programs, and number and types of offenders.

However, a facility which is also a safehouse, as defined in section 59-2(123.1), shall not be required to disclose its address and phone number.

(2) The facility shall make all parts of the facility, employee files, offender files, administrative files, the policy and procedure manual, rules of conduct for offenders, and all other records and papers physically available for inspection at the facility by the department of safety, division of community corrections and its inspectors during normal business hours for the purpose of evaluating the facility's program and determining whether the facility is in compliance with this article. The facility shall make employee files, offender files, administrative files, the policy and procedure manual, rules of conduct for offenders, and all other records and papers available for inspection in paper form.

(3) If the facility is regulated or assisted by any department or agency of the United States government, the facility may redact the identity of each offender from offender files and records pertaining to the diagnosis, prognosis, or treatment for substance abuse, or any education, prevention, training, rehabilitation or research related to the same, before disclosing such records to the department of safety, division of community corrections, and its inspectors.

(4) The manager of safety shall designate one (1) or more inspectors in the department of safety, division of community corrections to inspect private and contract facilities for compliance with the provisions of this article.

(5) Inspectors from the department of safety's division of community corrections shall

inspection and evaluate every non-governmental residential facility for the treatment and supervision of offenders and shall take enforcement action for any violation of this chapter.

(6) The department of safety, division of community corrections, and its inspectors, shall not state, report, or disclose, directly or indirectly, the identity of any individual offender in connection with or in any way related to the offender's diagnosis, prognosis, or treatment for substance abuse, or any education, prevention, training, rehabilitation or research related to the same.

(7) When conducting any evaluation or inspection under this article the department of safety, division of community corrections and its inspectors may rely entirely or in part upon any report of any evaluation, inspection or audit of the facility to find that the facility is in compliance with one or more of the requirements of this article if:

- (i) The report was prepared by any agency of the United States or the state;
- (ii) The department of safety, division of community corrections obtains a written copy of the report;
- (iii) The report was prepared within twelve (12) months of the date that the department of safety, division of community corrections begins its evaluation or inspection of the facility; and
- (iv) The report inspected, evaluated, or audited the facility under criteria that were the same or substantially similar to the requirement of this section that the report is used to satisfy.

(Ord. No. 368-00, § 3, 5-15-00; Ord. No. 228-01, § 1, 3-19-01; Ord. No. 565-01, § 3, 7-9-01)

#### **Sec. 26-17. Reserved.**

**Editor's note:** Ord. No. 565-01, § 4, adopted July 9, 2001, repealed section 26-17 in its entirety. Former section 26-17 pertained to operation of nongovernmental facilities for the treatment or supervision of offenders and derived from Ord. No. 368-00, § 3, adopted May 15, 2000.



## Land Use Research

Grand Rapids, MI

**DIVISION 1. GENERALLY****Sec. 30-421. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building* means a subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied or devoted exclusively to an accessory use. In a shoreland zone, an accessory structure or facility means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

*Accessory use* means a use on the same lot with the principal use of building that is customarily incidental and subordinate to the principal use or building.

*Agriculture* means the use of the land for agricultural purpose, including farming, dairying, pasturage, horticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating or storage of produce; provided, however, the operation of any such accessory uses shall be secondary to that of normal agriculture and provided further that these uses shall not include the commercial feeding of garbage or offal to swine or other animals.

*Airport or heliport* means any land or structure which is used or intended for use, for the landing and take-off of aircraft, and appurtenant land or port building or other port structures or rights-of-way.

*Airspace zones A, B, and C.* Refer to article III of this chapter.

*Alley* means a public right-of-way which affords a secondary means of access to abutting property.

*Alterations* means any modification, additions, or change in construction or type of occupancy; any enlargement of a building, either horizontally or vertically; or the moving of a structure from one location to another.

*Animals, domestic,* means fish, dogs, cats, birds and similar household pets.

*Animals, farm,* means cattle, hogs, horses, sheep, goats, rabbits, chickens and other farm animals.

*Animals, wild and exotic,* means animals other than domestic and farm animals that are customarily found in the wild and including snakes, wolves, and tigers and other such animals.

*Antenna support structure* means a building, athletic field lighting, water tower, or other structure, other than a tower, which can be used for location of telecommunications facilities .

*Apartment* means a room or suite of rooms, including bath and kitchen facilities, in a multiple-family building designed for occupancy by a single family.

*Apartment, accessory,* means an apartment that is secondary and incidental to a principal use or building.

*Applicant* means a person who applies for a permit to develop, construct, build, modify or erect a building, structure or use.

*Application* means the process by which the owner of a plot of land within the city submits a request to develop, construct, build, modify or erect a building, structure or use upon that land.

*Attorney* means the city attorney or his designated representative.

*Basement* means a portion of a building located partly underground, but having less than half its floor-to-ceiling height below the average grade of the adjoining ground.

than five feet in length, has an opening for access which may or may not have a door attached, and which is used for purposes of, but not limited to storage, transportation of freight or holding for sale or lease. It does not include tractor-trailers.

*Licensed residential facility* means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside of a person's own home which is registered under Minn. Stat. ch. 144D.

*Limited clearing* means the removal of trees, brush or shrubs in a noncontiguous pattern to allow visibility and other permitted uses. Limited clearing shall not greatly reduce the natural screening assuming summer leaf on conditions. For the purpose of this definition, trees are woody plants that attain a height of 20 feet or more, with a single woody stem and a definite crown. Brush/shrubs are smaller than trees, usually with multiple woody stems, and seldom exceeds 12 feet in height.

*Lot* means land occupied or to be occupied by a building, land use or group of buildings together with such open spaces or yards as are required by this article and having its principal frontage on a public street. The term "lot" includes the terms "plot" or "parcel."

*Lot area* means the area of a lot in square feet as bounded by the lot lines.

*Lot area per dwelling unit* means the number of square feet of lot area required for each dwelling unit.

*Lot, corner,* means a lot which has at least two contiguous sides abutting upon a street for their full length.

*Lot coverage, building,* means the percent of the lot covered with principle and accessory buildings.

*Lot interior* means a lot other than a corner lot.

*Lot line* means the lines bounding a lot as described in this article.

*Lot of record* means a lot which is part of a subdivision or plat, an auditor's subdivision or a registered land survey; or a parcel of land not so platted, for which a deed has been recorded in the county recorder's office prior to September 10, 1975.

*Lot, through,* means a lot where opposite lot lines abut two parallel streets and which is not a corner lot.

*Lot width* means the width measured along the front lot line of street line, or the shortest distance between lot lines measured at the midpoint of the building line.

*Manufactured home* means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files the certification required and complies with the standards established under Minnesota Statutes, ch. 327.

*Manufactured home park* means any premises on which are parked two or more occupied manufactured homes.

*Membrane structure* means a structure with a canvas or other membrane material canopy suspended from a pole structure that has at least one end that can be opened.

*Mining* means the extraction of sand, gravel or other such material from the land in the amount of 400 or more cubic yards.

*Mobile home* is synonymous with manufactured home whenever it appears.

*Mobile home park* is synonymous with manufactured home park whenever it appears.

*Modular housing* means a factory-built home, other than a manufactured home, composed of components substantially assembled in a manufacturing plant which are designed only for final erection or

**DIVISION 4. DISTRICT REGULATIONS\***

\*State law references: Districts and district regulations authorized, Minn. Stat. § 462.357, subd. 1.

**Sec. 30-511. Purpose of districts.**

The zoning districts are established for the specific purposes provided below:

- (1) *RR rural residence district and SRR shoreland rural residence district.* These are low-density residential districts in areas where city water and sewer services are generally not available and primarily intended to accommodate traditional single-family detached dwellings. Clustering may be allowed by PUD according to the densities established herein. For uses permitted by right, refer to section 30-512. The SRR districts are subject to additional shoreland management standards.
- (2) *R-1 one-family residence district and SR-1 shoreland one-family residence districts.* These are low density residential district which are primarily intended to accommodate traditional single-family detached dwellings. Clustering may be allowed by PUD according to the densities established in this division. For uses permitted by right, refer to section 30-512. The SR-1 districts are subject to additional shoreland management standards.
- (3) *R-1a one-family residence district (small lot) and SR-1a shoreland one-family residence district (small lot).* These are more compact, low-density residential districts which are primarily intended to accommodate traditional single-family detached dwellings that meet the housing needs of the city. These districts accommodate single-family detached dwellings on smaller lots in established neighborhoods or new development areas which have access to municipal sewer and water. Clustering may be allowed by PUD according to the densities established herein. For uses permitted by right, refer to section 30-512. The SR-1a districts are subject to additional shoreland management standards.
- (4) *R-2 one- and two-family residence district and SR-2 shoreland one- and two-family residence districts.* These are low density residential district that generally correlate with the existing close in neighborhoods that were originally divided into town size lots. While they are primarily for single-family detached dwellings at densities slightly higher than the R-1 district, they are also intended to be used for twin homes or two-family dwellings in other areas of the city designated by the comprehensive plan for low density residential development. They may also serve a transitional function in sensitive areas along major streets and railroad tracks and in areas where the land use changes from high to low intensity, e.g., commercial to single-family residential. In such locations, rental housing at low densities may offer a more feasible alternative than owner occupied housing. Such zoning would allow the conversion of existing and the construction of new dwellings provided all district development regulations are met. Refer to the tables in section 30-512, district development regulations. For uses permitted by right refer to section 30-512. The SR-2 districts are also subject to shoreland management standards.
- (5) *R-3 multiple-family residence district (medium density) and SR-3 shoreland multiple-family residence district (medium density).* These are modest density residential districts that are primarily intended to provide families with efficient alternatives to traditional single-family living. They are intended to provide for a variety and a mixture of multiple-family housing including townhouses, condominiums, apartments and other group housing types. They are also intended to provide recreation amenities and group usable open space within each project or development. For uses permitted by right refer to section 30-512. The SR-3 districts are also subject to shoreland management standards.
- (6) *R-4 multiple-family residence district (high density) and SR-4 shoreland multiple-family residence district (high density).* These are generally higher density districts which are primarily intended to accommodate condominiums and apartments for the full range of contemporary families including singles, couples, empty nesters, single headed families, etc. These, too, are intended to provide a variety of housing opportunities, with recreation and open space amenities, for people of all income and age groups. For uses permitted by right refer to section 30-512.
- (7) *LB limited business district and SLB shoreland limited business district.* These districts are primarily transitional in nature in that they generally occur where residential and commercial uses must necessarily interface. Because they intend to correlate with existing residential areas, these districts accommodate a wide range of residential uses plus office, cultural, small specialty retail and other uses that are generally compatible with intense commercial areas and surrounding residential areas. For uses permitted by right refer to section 30-512. The SLB districts are also subject to shoreland management standards.
- (8) *GB general business district and SGB shoreland general business district.* These districts are intended to accommodate a broad range of retail goods and services, land uses and generally serve the entire community. Though not exclusively so, businesses in this district are relatively freestanding and tend to occupy independent building sites. They may enjoy close proximity to like businesses but depend primarily on good accessibility, high visibility and a relatively large volume of passing traffic. For uses permitted by right refer to section 30-512. The SGB districts are also subject to shoreland management standards.
- (9) *CBD central business district.* This district correlates only with the downtown area of the city and is intended to serve a regional clientele. It is highly diversified and intended to offer the full array of high value commercial goods and services; hotel, cultural, tourist and entertainment services; high density residential; finance; general office and public uses. Because the CBD is a very high use intensity zone, is fully developed, much of which occurred prior to the existence of zoning regulations, and is an area that requires thereby to play a role in the provision of parking, normal parking, yard and lot requirements do not apply. For uses permitted by right refer to section 30-512.
- (10) *MU mixed use district and SMU shoreland mixed use district.* These districts are intended to accommodate a mix of residential, retail, office and public uses. Developments within this district are encouraged to use creative arrangements to incorporate a variety of uses into an integrated plan that are compatible with surrounding land uses. Developments should incorporate features to encourage pedestrian activity, such as an interconnected street pattern, sidewalks, smaller blocks and public gathering spaces. For uses permitted by right refer to section 30-512. The SMU districts are also subject to shoreland management standards.

- (11) *M medical district and SM shoreline medical district.* This district is intended to accommodate the development of medical, office, multifamily residential and related uses in the area surrounding the hospital medical complex. This may be a transitional area, and it is expected that the existing one- and two-family dwellings in the area will be replaced with more intensive uses. Development should be characterized with large lots and high landscaping standards. For uses permitted by right refer to section 30-512. The SM districts are also subject to shoreline management standards.
- (12) *RC recreational commercial district and SRC shoreline recreational commercial district.* These districts reserve specific areas for commercial recreational uses, whether publicly or privately owned, such as shooting ranges, ATV parks, game farms and golf courses. For uses permitted by right refer to section 30-512. SRC districts are also subject to shoreline management standards.
- (13) *I-1 industrial park district and SI-1 shoreline industrial park district.* These are planned industrial districts that are intended to accommodate new, modern, high performance, low impact industrial uses in a park-like setting. They allow a full range of industrial activities plus support services but allow only limited sales of goods and services directly to the public. For uses permitted by right refer to section 30-512. SI-1 districts are also subject to shoreline management standards.
- (14) *I-2 general industrial park district and SI-2 shoreline general industrial park district.* These districts generally correlate with the older existing industrial areas of the city and accommodate freestanding industrial buildings. These may be used for new industrial developments that are so designated by the city comprehensive plan provided all performance standards and extraordinary requirements are met with regard to R district relationships. For uses permitted by right refer to section 30-512. The SI-2 districts are also subject to shoreline management standards.
- (15) *CD conservancy district.* These districts are established to preserve and protect open space including lakes, streams, wetlands, marshes, woodlands and similar areas of natural, aesthetic and scenic value.
- (16) *PU public use district and SPU shoreline public use district.* The public land use districts are primarily intended to be used for major public and quasipublic uses of land as set forth in the comprehensive plan. They are also intended to accommodate major essential public facilities that provide governmental, educational, recreational, cultural and health care services to the entire community. For uses permitted by right refer to section 30-512. The SPU districts are also subject to shoreline management standards.
- (17) *AG agricultural district.* These districts are intended to allow for the continuation of agricultural practices and activities especially in areas that may be annexed to the city where public services are not yet available, an alternative use is not imminent and the owner desires to continue to farm the land. For uses permitted by right refer to section 30-512.
- (18) *AP airport district.* This is a highly specialized district that encompasses that part of the city airport property which is exclusively used for air transportation and related or complementary uses. For uses permitted by right refer to section 30-512 and article III of this chapter.
- (Code 1978, § 23.5(E); Ord. No. 07-03-06, § 2(Exh. A), 3-27-2007)

### Sec. 30-512. Table of uses permitted in zones.

For the purpose of this article, a comprehensive list of uses is presented in Table 1, Uses Permitted in Zones. This table is incorporated into this article generally and into the regulations of each district, as appropriate, the same as if the uses were listed separately and for each district. Table 1 identifies three types of uses: uses permitted by right (permitted uses), uses with restrictions, and conditional uses.

- (1) *Permitted uses.* These are identified as permitted in a particular zone by the placement of a "P" in the column bearing the heading of that zone.
- (2) *Restricted uses.* These uses are permitted in a particular zone subject to certain special restrictions. These uses are identified by the placement of a "R" in the column bearing the heading of that zone. For details on the types of restrictions, please refer to section 30-564.
- (3) *Conditional uses.* Certain uses, because of their unique characteristics, must be considered individually as to their impact upon neighboring land, and the public welfare and their compatibility at the particular location. Conditional uses must go through a special approval process prior to their establishment. These uses are identified by the placement of a "CU" in the column bearing the heading of that zone. For details on the conditional use process, please refer to section 30-531.

(Code 1978, § 23.5(F); Ord. No. 05-05-08, 5-18-2005; Ord. No. 05-06-12, 6-27-2005; Ord. No. 05-10-15, 10-24-2005; Ord. No. 06-03-01, 3-13-2006; Ord. No. 06-03-01, 3-27-2006; Ord. No. 07-03-06, § 2(Exh. A), 3-27-2007)

TABLE INSET:

TABLE 1 - PERMITTED USES

RR/ SRR	R-1a SR- 1/ SR- 1a	R-2/ SR- 2	R-3/ SR- 3	R-4/ SR- 4	LB/ SLB	GB/ SGB	CBD	MU/ SMU	M/ SM	RC/ SRC	I-1/ SI-1	I-2/ SI-2	CD	PU/ SPU	AG	AP	LISTING OF USES IN ZONING DISTRICTS
P	P	P	P	P	P										P		RESIDENTIAL single-family detached

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DIVISION 4. DISTRICT REGULATIONS\*

M 3	20,000	3,000	100	30	10	15	15	35	85	500	35	24
RC	1.5 acre	1.5 acre	200	50	25	25	25	25	50	N/A	35	N/A
L-1	1 acre	N/A	150	50	25	25	25	50	90	N/A	40	24
L-2	1 acre	N/A	150	50	25	25	25	60	90	N/A	110	N/A
PU	1 acre	N/A	50	30	10	15	30	N/A	35	N/A		
CD	N/A		50	50	50	50	50	N/A		N/A		
AG	2.5 acres	2.5 acres	50	50	50	50	50	N/A		N/A		
AP	N/A		50	50	50	50	50	N/A		N/A		

TABLE INSET:

FOOTNOTES:	1.	The sum of the two side yards must equal 15 feet, and six feet is the minimum side yard dimension.
	2.	These yards may be reduced to zero feet if abutting the CBD zone.
	3.	When a building in the medical zone is proposed to abut an existing building, for the purpose of providing a pedestrian linkage between the adjacent structures, a zero foot setback may be allowed along the common lot line.
	4.	For twin homes, each lot shall have a minimum lot size (gross area) of 7,000 sq. ft., each lot shall be minimum of 50 feet wide and the interior side setback shall be nine feet or zero feet minimum. <i>Example:</i> a duplex in R-2—10,000 sq. ft. required.
	5.	Essential structures may have a minimum building dimension less than 24 feet.

TABLE 2-B DISTRICT DEVELOPMENT REGULATIONS ACCESSORY STRUCTURES

MINIMUM YARD SETBACKS

TABLE INSET:

ZONE	FRONT	INTERIOR SIDE	STREET SIDE	REAR	MAXIMUM HEIGHT
RR	30 2	15	30 2	30	25
R-1	30	6	15	10	18 3
R-1a	30	6	15	10	18 3
R-2	30	6	15	10	18 3
R-3	30	6	15	10	18

## DIVISION 4. DISTRICT REGULATIONS\*

R-4	30	6	30	10	18
LB	30	10	15	15	18
GB	30	10	15	10	18
CBD	N/A			30	
MU	30	10	15	15	18
M	30	10	15	15	18
RC	50	25	25	25	35
L-1	50	25	25	25	40
L-2	50	25	25	25	60
CD	50	50	50	50	40
PU	30	10	15	30	18
AG	50	50	50	50	60
AP	50	50	50	50	N/A

TABLE INSET:

FOOTNOTES:	1	A minimum of 20 feet where a garage is entered from a street for R-1, R-1a, R-2 and R-3 Districts.
	2.	Accessory buildings in RR and AG districts must be setback 75 feet if located in front or side yard, please refer to section 30-563 (1)d.
	3.	18 feet or the same height as the principal structure (whichever is greater) in R-1, R-1a and R-2 Zones.
	4.	These yards may be reduced to zero feet if abutting the CBD zone.
NOTE:		For total square footage allowed for accessory buildings, please refer to section 30-563(2).

TABLE 2-C DISTRICT DEVELOPMENT REGULATIONS - SURFACE PARKING

## MINIMUM YARD SETBACKS

TABLE INSET:

MINIMUM YARD SETBACKS				INTERIOR LANDSCAPING REQUIREMENTS	
ZONES	FRONT	INTERIOR SIDE	STREET SIDE	REAR	AMOUNT (sq. ft./staff) THRESHOLD
RR	Please refer to section 30-593(e)				N/A
R-1	Please refer to section 30-593(e)				N/A
R-1a	Please refer to section 30-593(e)				N/A
R-2	Please refer to section 30-293(e)				N/A
R-3	10	6	10	6	20
R-4	10	6	10	6	15
LB	10	1	6	10	20

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GB	10	1	6	10	6	15	40
CBD	6	6	6	6	10	40	
M	10	1	6	10	10	20	25
MU	10	1	6	10	10	20	25
RC	35	1	10	25	10	10	40
I-1	10	10	6	2	10	6	2
I-2	10	10	6	2	10	6	2
CD, PU	25	25	25	25	15	40	
AG	N/A						
AP	25	25	25	25	N/A		

TABLE INSET:

FOOTNOTES:	1.	Amount indicated in above table, or ten percent of the parking lot depth, whichever is greater.
	2.	Increase to 25 feet when parking lot abuts a residential district.
	3.	If the parking lot is designed for more than the number of cars shown in this column, then the interior landscape requirements shall be invoked. Threshold refers to the number of stalls in a parking lot which, if equaled or exceeded, requires the installation of interior landscaping.

TABLE INSET:

TABLE 17C-1 MINIMUM LOT SIZE STANDARDS SHORELAND DISTRICTS

LAKE CLASSIFICATIONS AND ZONING DISTRICTS	Sewered Lots				Non-Sewered Lots			
	Riparian Lots		Non-Riparian Lots		Riparian Lots		Non-Riparian Lots	
	Area	Width	Area	Width <sup>1</sup>	Area	Width	Area	Width
Natural Environment	(Lily Lake and Horseshoe Lake)							
SPU	1 acre	150	1 acre	150	1 acre	200	1 acre	200
SRR	1.5 acres	200	1.5 acres	200	80,000	200	80,000	200
SR-1	40,000	125	20,000	125	80,000	200	80,000	200
SR-1a	40,000	125	20,000	125	80,000	200	80,000	200
SR-2 (SR-1 plus "X" per additional	30,000	100	15,000	95	40,000	100	80,000	200

dwelling unit)									
SR-2 Twin Homes Only	35,000	50	17,500	50	60,000	50	80,000	100	
SR-3 or SR-4	Must meet requirements of 30-809								
SLB, SGB, SMU or SM	1 acre	200	1 acre	200	1 acre	200	1 acre	200	
SRC	1.5 acre	200	1.5 acre	200	1.5 acre	200	1.5 acre	200	
SL-1 or SL-2	1 acre	150	1 acre	150	1 acre	200	1 acre	200	
Recreational Development	(McKinney Lake, Crystal Lake, Hale Lake, Forest Lake)								
SPU	1 acre	200	1 acre	200	1 acre	200	1 acre	200	
SRR	1.5 acres	200	1.5 acres	200	1.5 acres	200	1.5 acres	200	
SR-1	20,000	75	15,000	75	40,000	150	40,000	150	
SR-1a	20,000	75	15,000	75	40,000	150	40,000	150	
SR-2 (SR-1 plus "X" per additional dwelling unit)	15,000	60	11,000	60	40,000	75	40,000	115	
SR-2 Twin Homes Only	17,500	50	13,000	50	40,000	50	80,000	60	
SR-3 or SR-4	Must meet requirements of section 30-809								
SLB	15,000	100	14,000	100	20,000	100	20,000	100	
SGB, SMU	15,000	75	12,500	75	20,000	100	20,000	100	
SRC	1.5 acre	200	1.5 acre	200	1.5 acre	200	1.5 acre	200	
SL-1 or SL-2	1 acre	200	1 acre	200	1 acre	200	1 acre	150	
General Development	Mississippi Reservoir from the Blandin Dam West to City Limits, and Pokegama Lake								
SRR	1.5 acres	200	1.5 acres	200	1.5 acres	200	1.5 acres	200	
SR-1	15,000	75	10,000	75	20,000	100	40,000	150	
SR-1a	15,000	75	10,000	75	20,000	100	40,000	150	
SR-2 (SR-1 plus "X" per additional dwelling unit)	9,000	60	7,500	60	20,000	80	40,000	115	
SR-2 Twin Homes Only	12,000	50	8,750	50	20,000	50	40,000	60	

SM	1.5 acre	250	1.5 acre	150	1.5 acre	250	1.5 acre	150
SR-3 or SR-4	Must meet requirements of section 30-809							
SPU, SLB, SGB, SMU, SRC, SL-1, SL-2	Same requirements as Recreational Development Lakes							

TABLE INSET:

RIVER CLASSIFICATION AND ZONING DISTRICTS	Sewered Lot		Unsewered Lot	
	Lot Area	Lot Width	Lot Area	Lot Width
Urban River - Mississippi River Blandin Dam to the N/S 1/4 section line of Section 27-55-25				
Tributary River - Mississippi River all areas of township 55 north, range 25 west under City's zoning jurisdiction				
SRR	1.5 acres	200	1.5 acre	200
SR-1	15,000	75	20,000	100
SR-1a	15,000	75	20,000	100
SR-2 (SR-1 plus "X" per additional dwelling unit	9,000	60	20,000	100
SR-2 Twin Homes Only	12,000	50	20,000	50
SR-3 or SR-4	Must meet requirements of Section 30-809			
SLB, SGB, SMU or SM	15,000	75	20,000	100
SRC	1.5 acre	200	1.5 acre	200
SL-1 or SL-2	1 acre	150	1 acre	150
SPU	1 acre	200	1 acre	200
Forested River - Mississippi River - N/S 1/4 section line of Section 27-55-25 to the south line of township 55 north, range 25 west				
SRR	1.5 acre	200	1.5 acre	200
SR-1	40,000	200	80,000	200
SR-1a	40,000	200	80,000	200
SR-2 (SR-1 plus "X" per additional dwelling unit	30,000	100	40,000	100
SR-2, Twin Homes Only	35,000	100	60,000	100
SR-3 or SR-4	Must meet requirements of 30-809			
SLB, SGB, SMU or SM	1 acre	200	1 acre	200
SRC	1.5 acre	200	1.5 acre	200
SL-1 or SL-2	1 acre	200	1 acre	200
SPU	1 acre	200	1 acre	200

TABLE INSET:

DIVISION 4. DISTRICT REGULATIONS\*

\*EXAMPLE: A SFD located on a sewerred, riparian, Natural Environment Lake lot in a SR-2 zone would require a minimum lot size of 40,000 square feet. A similarly situated duplex would require a minimum lot size of 70,000 square feet (40,000 plus 30,000).

TABLE INSET:

TABLE 17C-2 MINIMUM SETBACKS/COVERAGE STANDARDS SHORELAND DISTRICTS

	SETBACK FROM OHWL			SETBACK FROM PROPERTY LINE				OTHER REQUIREMENTS		
	Building (Public Sewer)	Building (Private Sewer)	Sewage Treatment System	Front Street	Interior Side	Street Side	Rear	Maximum 1 Lot Coverage (percentage)	Maximum Building Height	Minimum Building Dimension
Natural Environment	(Lily Lake and Horseshoe Lake)									
SPU	150	150	150	30	10	15	10	85	35	24
SRR	150	150	150	30	15	30	30	25	35	24
SR-1	150	150	150	30	6-9 2	15	30	25	25	24
SR-1a	150	150	150	30	6	15	30	25	25	24
SR-2	150	150	150	30	6-9 2	15	30	25	25	24
SR-3	150	150	150	35	10	15	35	75	25	24
SR-4	150	150	150	35	20 4	30	35	75	45	24
SLB, SGB	150	150	150	30	10	15	10	85	35	24
SM	150	150	150	30 5	10	20 5	15	25	45	24
SMU	150	150	150	35	30	30	35	75	45	24
SRC	150	150	150	50	25	25	25	25	35	N/A
SRC, SL-1 or SL-2	150	150	150	50	25	25	25	85	60	N/A
Recreational Development	(McKinney Lake, Crystal Lake, Hale Lake, Forest Lake)									
SPU	75	100	75	30	10	15	10	85	35	24
SRR	75	100	75	30	15	30	30	25	35	24
SR-1	75	100	75	30	6-9 2	15	30	35	25	24
SR-1a	75	100	75	30	6	15	30	35	25	24
SR-2	75	100	75	30	6-9 2	15	30	35	25	24
SR-3	75	100	75	35	10	15	35	75	25	24

SR-4	75	100	75	35	20 4	30	35	75	45	24
SLB, or SGB	75	100	75	30	10	15	10	85	35	24
SMU	75	100	75	35	20	30	35	75	45	24
SRC	75	100	75	50	25	25	25	25	35	N/A
SRC, SI-1 or SI-2	75	100	75	50	25	25	25	85	60	N/A
General Development	Mississippi Reservoir from Blandin Dam West to City Limits, and Pokegama Lake									
SPU	75	100	75	30	10	15	10	85	35	24
SRR	50	75	50	30	15	30	30	25	35	24
SR-1	50	75	50	30	6-9 2	15	30	35	25	24
SR-1a	75	100	75	30	6	15	30	35	25	24
SR-2	75	100	75	30	6-9 2	15	30	35	25	24
SR-3	75	100	75	35	10	15	35	75	25	24
SR-4	75	100	75	35	20 4	30	35	75	45	24
SLB or SGB	75	100	75	30	10	15	10	85	25	24
SM	50	75	50	30 5	10	20 5	15	25	45	24
SMU	75	100	75	35	20	30	35	75	45	24
SRC	75	100	75	50	25	25	25	25	35	N/A
SI-1 or SI-2	75	100	75	50	25	25	25	90	110	N/A
Urban River	Mississippi River - Blandin Dam to the N/S 1/4 section line of Section 27-55-25									
Tributary River	Prairie River - All areas of township 55 north, range 25 west under City's zoning jurisdiction.									
SPU	50	100	75	30	10	15	10	90	35	24
SRR	50	100	75	30	15	30	30	20	35	24
SR-1	50	100	75	30	6-9 2	15	30	35	25	24
SR-1a	50	100	75	30	6	15	30	35	30	24
SR-2	50	100	75	30	6-9 2	15	30	35	30	24
SR-3	50	100	75	35	10	15	35	75	25	24
SR-4	50	100	75	35	20 4	30	35	75	45	24
SLB or SGB	50	100	75	30	10	15	10	90	35	24
SMU	50	100	75	35	20	30	35	75	45	24
SRC	50	100	75	50	25	25	25	25	35	N/A





Type of Bufferyard	Canopy Trees	Understory Evergreen Trees	Shrubs	Fence
A	1	2	4	No
B	1	3	6	No
C	1	4	8	No
D	1	5	10	Yes*
E	1	6	12	Yes**

\* Fence required only when off-street parking area abuts a residential zone and fences are required only when an off-street parking area is situated abutting a residential zone and located within 25 feet of a residential zone property line. The fence shall not be less than 3 1/2 feet high nor more than six feet high, and located within 25 feet of a residential zone property line. The fence shall not be less than 3 1/2 feet nor more than six feet in height, and shall have an opacity of not less than 90 percent. No parking lot fencing shall be required in a required front yard or street side yard.

\*\* In addition to the parking lot fence requirements for a Type E bufferyard, a fence shall be required only on the common lot line(s) or lot lines adjacent to an alley, but shall not extend into the required front yard. The fence shall have an opacity of not less than 90 percent, and shall be six feet high, unless otherwise required in this article.

TABLE INSET:

TABLE 3-8 DISTRICT DEVELOPMENT REGULATIONS - BUFFERYARDS REQUIRED BY LOCATION

Zoning of Subject Property	Zoning of Adjacent Property																	
	RR	R-1	R-1a	R-2	R-3	R-4	LB	GB	CBD	MU	M	RC	I-1	I-2	CD	PU	AG	AP
RR	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-1a	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-3	C	C	C	C	A	A	A	A	A	A	A	A	A	A	C	C	C	A
R-4	C	C	C	C	B	A	A	A	A	A	A	A	A	A	C	C	C	A
LB	D	D	D	D	D	D	A	A	A	A	A	A	A	A	D	D	D	A
GB	D	D	D	D	D	D	A	A	A	A	A	A	A	A	D	E	E	A
CBD	B	B	B	B	B	B	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
MU	B	B	B	B	A	A	A	A	A	A	A	A	A	A	A	B	A	A
M	D	D	D	D	D	D	A	A	A	A	A	A	A	A	D	D	D	A
RC	B	B	B	B	A	A	A	A	A	A	A	A	A	A	A	A	A	A
I-1	E	E	E	E	E	E	B	A	A	A	B	A	A	A	E	E	N/A	N/A
I-2	E	E	E	E	E	E	B	A	A	A	D	A	A	A	E	E	E	A
CD	A	A	A	A	A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
PU	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

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25

- b. No single accessory building shall exceed 25 feet in height.
- c. Accessory buildings not used for agricultural purposes shall be limited to the height of the principal residential structure with no more than 14 foot sidewalls
- d. Accessory buildings shall be designed to be compatible with the principal building and general neighborhood environments, including but not limited to exterior finish, color, materials, overhangs, soffits, and fascia.
- e. Accessory buildings located in the front or side yard shall be allowed subject to the following requirements:
  - 1. The accessory building is designed to architecturally match the existing principal structure including roof pitch, windows, trim, shingles, color and side materials. The roof overhang and eaves shall be at least 12 inches but no more than 30 inches.
  - 2. Accessory building overhead doors must be perpendicular to the road.
  - 3. The height of the accessory structure shall not exceed that of the principal structure and the maximum sidewall height shall not exceed 12 feet.
  - 4. Must be setback no less than 75 feet from the public right-of-way.
  - 5. The principal structure and accessory structure must share a common driveway.

(Code 1978, § 23.5(G); Ord. No. 07-03-06, § 2(Exh. A), 3-27-2007)

#### **Sec. 30-564. Uses with restrictions.**

The following restrictions apply in this article as indicated:

- (1) Accessory apartments (within the CBD zone): Shall be required to have one off-street parking stall per unit.
- (2) Automotive/RV repair provided:
  - a. No repair work shall take place outside of the principal structure; and
  - b. Any damaged or disassembled (partially or wholly) vehicle stored overnight shall be kept in an enclosure screening the vehicle and/or other materials from public view in such manner as described in section 30-594(h).
- (3) Bank, savings and loan, or loan agency (within the LB, SLB zone): Maximum size of structure 2,000 square feet GFA.
- (4) Bed and breakfast facilities (within R-2, SR-2 zone) provided:
  - a. One off-street parking space is provided for each guestroom in addition to the minimum number required for residential and any other permitted uses.
  - b. The facility shall be limited to providing service to four persons, excluding children under 12 accompanied by a parent; provided that service to up to ten (10) persons may be allowed in an R2 zone by Conditional Use Permit
  - c. The facility shall not have more than two guestrooms; provided that up to five (5) guest rooms may be allowed in an R2 zone by Conditional Use Permit.
  - d. Signs identifying bed and breakfast facilities shall not exceed three square feet in area. This provision shall take precedence over any less restrictive sign regulations in this article.

(5) Bed and breakfast facilities (within R-3, SR-3, R-4, SR-4 zone): Same restrictions as the R-2 zone, except that the facility may serve up to ten persons, but shall not have more than five guestrooms.

(6) Car, truck and equipment cleaning establishments (within GB, SGB zone): Subject to the special restrictions established for gasoline and fuel sales and service establishments. See subsection (15) of this section. In addition, the vehicle entrance door shall be no more than ten feet high.

(7) Churches and similar places of worship provided as follows (within RR, SRR, R-1, SR-1, R-1a, SR-1a, R-2, SR-2, R-3, SR-3, R-4, SR-4, LB, SLB, GB, SGB, CBD zone):

- a. No principal building shall be located within 30 feet of any lot line of an abutting lot in an R district;
- b. The site shall be at least one acre in size; and
- c. The use shall be subject to the site development standards defined in division 7 of this article, and for bufferyard purposes shall be treated as an R-3 property.

(8) Clubs, lodges and membership organizations (within RR, LB, GB, SGB, CBD, MU, SMU, and AG zone):

- a. Within GB, SGB, CBD, MU, and SMU, may not be located closer than 600 feet to any school.
- b. Within RR, LB and AG districts, no commercial (retail or service) uses shall be conducted as part of the organization's operations from the site.

(9) Contractor's yard, material storage (within the GB, SGB, I-1, SI-1, I-2 and SI-2 zone): All outdoor storage of equipment, except automobiles and trucks up to two ton, and materials/supplies shall be screened from public view as per the requirements of section 30-594 (h).

(10) Customary home occupations are subject to all of the following conditions:

- a. Home occupations shall be conducted solely by persons residing in the residence.
- b. All business activity and storage shall take place within the interior of the residence and shall not take place in an accessory building or buildings.
- c. There shall be no alteration to the exterior of the residential dwelling, accessory building or yard that in any way alters the residential character of the premises.
- d. No sign, display, or device identifying the occupation shall be used.
- e. The occupation shall not be visible or audible from any property line.
- f. Such occupation shall not involve the retail sale or rental of products on the premises.
- g. No vehicle used in the conduct of the occupation shall be parked, stored or otherwise present at the premises other than such as is customarily used for domestic or household purposes such as a van or three-quarter ton truck.
- h. Only on-site off-street parking facilities normal for a residential use shall be used.
- i. The use of substances that may be hazardous to the health, safety or welfare of neighbors and neighboring property shall not be used in the conduct of a home occupation.

(11) Day care centers (within MU, SMU, M, SM, I-1, SI-1, I-2, SI-2 zone): Must be accessory to a permitted use and available only for employees of that permitted use.

(12) Day care centers for 15 or more persons (within the RR, SRR, R-1, SR-1, R-1a, SR-1a, R-

2, SR-2, R-3, SR-3, R-4, SR-4 zone): Licensed by the state within elementary, junior high and senior high schools and religious institutions.

(13) Emergency housing facility (within R-1, R-2, R-3, SR-3, R-4, SR-4, LB, SLB, GB, PU, SGB, CBD, MU, SMU, AG zone): Provided as follows:

- a. Facility shall provide detailed program information including goals, policies, site plan, building plan, staffing pattern, target capacity, security measures, and emergency management plan.
- b. The facility shall not be located in a two-family or multi-family dwelling unless it occupies the entire structure.
- c. The facility shall be limited to no more than 16 residents in residential zoning districts or 32 residents in non-residential districts without a conditional use permit.
- d. Existing residential structures used for an emergency housing facility shall not be externally altered so that the original residential character of the structure is compromised unless approved by the city council.
- e. No on-street parking shall be allowed. Adequate off-street parking shall be required by the city based on the staff and resident needs of the specific facility. Private driveways shall be of adequate width to accommodate effective vehicle circulation. Emergency vehicle access shall be available at all times.
- f. Landscaping and buffering shall be provided consistent with the requirements contained in section 30-594.
- g. Signage of the emergency housing facility shall be limited to the provisions of division 10 based on the zoning district in which it is located.
- h. Emergency housing within the R-1 and R-2 districts shall be as accessory uses to the principle use.

(14) Equipment and/or tool rental (within the GB, SGB zone): All outdoor storage of equipment, except automobiles and trucks up to two ton, and materials/supplies shall be screened from public view as per the requirements of section 30-594(h).

(15) Essential services (within all zones): Provided as follows:

- a. Prior to the installation, the owner files with the city engineer/zoning administrator all maps, sketches or diagrams and other pertinent information as deemed necessary by the city engineer/zoning administrator for review of the proposed project.
- b. Radio transmitters and receivers accessory to an essential service may be located on existing utility poles or light standards within the public right-of-way provided the radio transmitters and receivers comply with the following standards:
  1. Radio transmitters and receiver devices located on a utility pole/tower or light standard shall be at least fifteen feet above grade.
  2. Radio transmitters and receiver devices shall not exceed eighteen inches in length or width or extend more than eighteen inches from the pole.
  3. Antennas may not extend more than twenty-four inches from the equipment.
  4. A map shall be submitted showing the location of all proposed radio transmitters and receivers. The map shall be accompanied by a list of all sites referenced by the closest street address or property identification number. The list of sites must also describe the type of pole to be used.
  5. The applicant shall notify the city of any changes to the approved list prior to erecting or placing any additional equipment in the right-of-way.

6. The applicant shall notify the city at the time of permit application of any obstruction that would cause traffic to be rerouted or stopped.
  7. The applicant shall enter into an encroachment agreement with the city if required.
- (16) Essential service structures (LB/SLB, GB/SGB, M/SM, RC/SRC, I-1/SI-1, I-2/SI-2, CD, PU/SPU, AG, AP): Provided they shall not be located within 30 feet of any lot line of an abutting residential district.
- (17) Farm Animals (within AG, RR, SRR zone) provided:
- a. All farm and permitted non-domestic animals must be so contained to prevent the animals from escaping onto neighboring properties or injuring the public.
  - b. Enclosed pens, corrals, feed lots, and structures used to house farm and permitted non-domestic animals shall be setback a minimum of 25 feet from the nearest lot line or the applicable accessory structure setback, whichever is greater (said setback shall not apply to open grazing or pasture areas).
- (18) Garage/yard sales (within RR, SRR, R-1, SR-1, SR-1a, R-2, SR-2, R-3, SR-3, R-4, SR-4, LB, SLB, AG)--Temporary: Provided as follows:
- a. The sale is not more than four successive days in duration.
  - b. Not more than three such sales are conducted on the premises in a calendar year.
  - c. There shall be at least one month between sales on the same premises.
- (19) Gasoline and fuel sales and service establishments including accessory car washes (within GB, SGB zone): Subject to all of the following:
- a. Minimum front yard of 30 feet.
  - b. All operations shall be conducted within the principal building except for vacuuming and gas pumps.
  - c. A curb six inches above grade shall be provided at any edge of a parking lot abutting a property line which adjoins a public street.
  - d. The site shall be planned so as not to permit water from a car wash to run into a public street or accesses thereto. A drainage system shall be installed subject to the approval of the city engineer.
  - e. Pump islands, canopies, and tank vents shall conform to yard requirements or a minimum of 20 feet from a street right-of-way whichever is greater.
- (20) Gasoline station (within CBD zone): No more than one carwash bay and/or two service bays shall be permitted as accessory uses.
- (21) Golf and country clubs (within residential zones and PU, SPU zone): Other than golf driving ranges and miniature golf courses but including clubhouses provided the site shall be 40 or more acres in size and shall have a direct access to a major street as defined by the city comprehensive plan. Swimming pools, tennis courts, structures and parking shall be located a minimum of 50 feet from all residential property lines.
- (22) Group homes, foster homes or licensed residential facilities for six or fewer persons (within residential zones, LB, SLB and AG zone): Must be licensed by the state for six or fewer persons.
- (23) Individual manufactured homes with a minimum dimension of less than 24 feet (within the AG zone): Provided:
- a. They are occupied by members of the family or an employee.

## Land Use Research

Reno, NV



ARTICLE II: PERMITTED USES AND USE REGULATIONS

Section 18.08.201. Permitted Uses by Base Zone District.

(a) Interpretation of Summary Land Use Tables. Buildings, structures, and land shall be used only in accordance with the uses permitted in the following Summary Land Use Tables, subject to all other applicable requirements of this chapter and title.

(1) Organization of uses and interpretation of table cell entries. The Summary Land Use Tables in the following subsections set forth the principal, accessory, and temporary uses of land, buildings, and structures allowed in each of the base zone districts in the city, except as noted in subsection (b) below for the special purpose zoning districts. Specific uses are organized alphabetically under the following seven broad use categories:

- a. Residential;
- b. Commercial Sales and Services;
- c. Recreation, Entertainment, and Amusement;
- d. Lodging;
- e. Institutional, Public, and Community Service;
- f. Industrial, Manufacturing, Wholesale, Distribution, and Transportation; and
- g. Other.

The entry in each table cell indicates whether the use may be established in the particular zone district and what type of review procedure is applicable prior to establishment of the use. A blank square or cell shall mean that the use is not allowed in that zoning district as a principal, accessory, or temporary use. An entry in the cell indicates the use is allowed in the zoning district subject to compliance with all applicable regulations and with the specific type of review procedure, as indicated by one of the following abbreviations:

TABLE INSET:

TABLE 18.08-4: SUMMARY LAND USE TABLE CELL ENTRIES	
SUMMARY LAND USE TABLE CELL ENTRY	MEANING OF SUMMARY LAND USE TABLE CELL ENTRY
	• The use is permitted as a principal use in the zoning district by right,

"P"		and is not subject to a discretionary review procedure.
	•	The use shall comply with all applicable use-specific regulations referenced in the "additional regulations" column of the summary use table, and with all general development and design standards applicable to such use and/or zone district as set forth in this chapter and title.
"SUP"	•	The use is permitted in that zoning district only after first obtaining a special use permit (SUP) according to the procedures and criteria set forth in Section 18.06.405.
	•	The use shall comply with all applicable use-specific regulations referenced in the "additional regulations" column of the summary use table, and with all general development and design standards applicable to such use and/or zone district as set forth in this chapter and title.
	•	Any specific regulations referenced in the summary use tables are the minimum conditions for approval of a special use permit for the subject use. Additional conditions may also be required during the public hearing process to ensure compatibility of that use in relation to surrounding uses and the pattern of development, and as needed to make the findings in Section 18.06.405.
	•	Uses subject to special use permits that do not have additional regulations referenced in the summary use tables may have conditions placed on the proposed use during the public hearing process to ensure compatibility of the use in relation to surrounding uses and the pattern of development, and as needed to make the findings in Section 18.06.405.
"SPR"	•	The use is permitted in the zoning district only after first obtaining administrative approval of a site plan review as set forth in Section 18.06.407.
	•	The use shall comply with all applicable use-specific regulations referenced in the "additional regulations" column of the summary use table, and with all general development and design standards applicable to such use and/or zone district as set forth in this chapter and title.
	•	The use is permitted as an accessory use to a primary use allowed in the zoning district.
	•	Establishment of the specific accessory use listed in the table does

	not necessarily exclude other land uses that are generally considered accessory to the primary use.
"A"	<ul style="list-style-type: none"><li>The accessory use shall comply with all applicable use-specific regulations referenced in the "additional regulations" column of the summary use table, with the accessory use and structure standards stated in Section 18.08.203 of this chapter, and with all general development and design standards applicable to such accessory use and/or zone district as set forth in this chapter and title.</li></ul>
Blank Cell	<ul style="list-style-type: none"><li>The use is prohibited in the zoning district.</li></ul>

(2) Additional regulations and references.

- General. All allowed uses, whether permitted by-right, conditionally, or by special use permit or site plan review, are subject to all applicable zoning, development, and design standards in this chapter and title.
- Base zoning district regulations. Land uses shown in the Summary Land Use Tables may be subject to specific regulations and limitations established in the applicable base zoning district. District-specific use and development regulations are found in Article III (District-Specific Standards - Base Zoning Districts) and Article IV (District-Specific Standards - Overlay Zoning Districts).
- Overlay zoning district regulations. Land uses shown in the Summary Land Use Tables as allowed in a particular base zoning district may be limited by application of an overlay zoning district. Applicants and property owners should refer the city's official Zoning Maps and to Article IV (District-Specific Standards - Overlay Zoning Districts) below, for applicable overlay zoning provisions.
- Use-specific regulations. Allowed uses may also be subject to specific use regulations, as referenced in the "Additional Regulations" column of the Summary Land Use Tables. These additional use-specific regulations are found in Sections 18.08.202, 18.08.203, and 18.08.204 immediately following the use tables, and apply in all zoning districts unless otherwise expressly stated.

(3) Additional thresholds for special use permit review.

- Additional special use permit review thresholds. In addition to the establishment of "special use permit" uses in certain zoning districts as indicated by a "SUP" entry in the Summary Land Use Tables, approval of a special use permit is required for certain categories of uses and development activity, regardless of zoning district, as specified in the applicability and exemption provisions of Section 18.06.405 (Special Use Permit). For example, development of commercial uses in a nonresidential zoning district may trigger special use permit review if located adjacent to a major arterial or if located adjacent to residentially zoned property.

(4) Similar and prohibited uses.

- The uses permitted in this section are classified on the basis of common operational characteristics and land use

<b>Bed &amp; Breakfast Inn</b>					<b>SPR</b>		<b>P</b>	<b>P</b>	<b>\$18.08.202(d)</b> <b>(1).</b>
<b>Recreational Vehicle Park</b>	<b>SUP</b>								<b>\$18.08.202(d)</b> <b>(5).</b>

TABLE INSET:

[illegible]

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Construction Structures	P	P	P	P	P	P	P	P	P	P	(5).
Temporary Real Estate Sales Office	P	P	P	P	P	P	P	P	P	P	\$18.08.204(d) (6).

(d) Summary Use Table for Nonresidential and Mixed Use Base Zone Districts.

TABLE INSET:

TABLE 18.08-6: USES PERMITTED IN NONRESIDENTIAL AND MIXED USE BASE ZONING DISTRICTS												
USE CATEGORY/ Specific Use Type	P = PERMITTED BY-RIGHT SPR = SITE PLAN REVIEW REQUIRED SUP = SPECIAL USE PERMIT A = PERMITTED AS ACCESSORY USE											ADDITIONAL USE REGULATIONS (Apply in All Zone Districts Unless Otherwise Noted)
	NONRESIDENTIAL AND MIXED USE BASE ZONING DISTRICTS											
	MU	OS	PO	GO	PF	NC	AC	CC	HC	I	IC	
PRINCIPAL USES												
See Section 18.08.202 (Additional Regulations for Principal Uses)												
RESIDENTIAL												
Boarding or Rooming House	P									P		
Congregate Care Facility	P						P/ SUP	P/ SUP	P/ SUP			\$18.08.202(a) (2). NC, AC, CC: SUP required if 100 or more units; SUP required if 200 or more beds in a dormitory style

✓

[illegible]

TABLE INSET:

[illegible]



tion Facility, Equipment Only	P	SUP	P	SUP	P	SUP	P	SUP	P	SUP	P	SUP	P	SUP	P	\$18.08.202(e) (5).
Electric Generating Plant	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	P	SUP	P/	P/	P/	\$18.08.202(e) (6). IC, IB: SPR required if adjacent to residentially zoned property.
Electric Utility Substation	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	P	P/	P/	\$18.08.202(e) (6). IC, IB: SPR required if adjacent to residentially zoned property.
Funeral Parlor	P										P					
Government Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Halfway House	SUP															\$18.08.202(e) (7).
Hospital, Acute & Overnight Care	P															
Library, Art Gallery or Museum	P	P	P	P	P	P	P	P	P	P						
Post Office	P	SPR	SPR	P	SPR	SPR	SPR	SPR	SPR	SPR	P	P	P	P	P	
Prison/ Custodial Institution																
Public Meal																



✓

**TABLE INSET:**

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accompanied with sufficient information to justify the need for the facility at the proposed location and height within the next 12-month period. A map shall accompany the application depicting the zoning on parcels within 1,000 feet of the proposed site, and all acceptable nonresidential sites. Evidence shall be provided demonstrating why more acceptable nonresidential properties are not being pursued. "Acceptable sites" are those that meet the provider's technical requirements (location, elevation, clear line of sight).

- r. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the FCC.
  - s. Telecommunication facilities shall require a special use permit in all residential districts, on school sites, public parks and day care centers (12 or more children or adults). Where an existing antenna received a Special use permit, additional antenna may be collocated on the pole when installation will not increase pole height.
- (6) Electric generating plant, electric utility substation. Electric generating plant/electric utility substation uses shall comply with the following regulations:

- a. Facility shall be screened from view of the street and adjacent properties using any combination of the following:
  - 1. Landscaping shall consist of a combination of trees and shrubs as described in Section 18.12.1207(c), (Semi-Opaque Screening), except that beneath overhead power lines no trees with an expected height greater than 25 feet at maturity shall be planted. Selection of plant material shall coordinate with the vegetation in the surrounding land uses, or expected land uses (i.e., domestic plants shall be used in areas where surrounding development has used domestic plants. Native vegetation shall be emphasized in rural locations, or where surrounding development has used native plantings).

All ground within landscaped area shall be covered with ground covering. If rock is used, rock color and size shall be selected to blend in with the surroundings.

- 2. Chain link fencing with vinyl slats, eight feet in height, will be allowed in combination with semi-opaque screening as required in subsection a.1. above.
  - 3. Other solid screening materials may be substituted at the approval of the administrator. These screenings may include solid wood fencing, provided it blends with surrounding land uses, solid masonry walls, or precast concrete walls with suitable architectural finish.
  - 4. Landscape buffers shall be constructed in the front and side setbacks. Dimensions of these setbacks shall be greater than or equal to those defined in the section governing each zone.
  - 5. At the discretion of the administrator, installation of landscaping and irrigation may be delayed until development is constructed adjacent to the utility facility.
  - b. Noise shall comply with Section 18.12.304(g).
  - c. Barbed wire may be permitted on facilities with a history of vandalism.
- (7) Halfway house. All halfway house uses shall comply with the following regulations:

- a. Shall not be located within 600 feet of another halfway house.
- b. Shall not be located within 1,000 feet of a school.
- c. Twenty-four-hour management and supervision shall be required.
- d. A management plan that includes life-skills training shall be submitted to the administrator with an application for certificate of occupancy and approved by the administrator prior to issuance of the certificate of occupancy.

(8) Public meal provider/homeless service. All public meal provider/homeless service uses shall comply with the following regulations:

- a. Any public meals facility shall include an internal dining room and a lobby or waiting area designed to prevent the formation of a queue outside of the building. Such lobby shall open at least 30 minutes before the dining room opens so that patrons may wait inside.
- b. In public meals facilities, interior restrooms shall be available to patrons at least 30 minutes before meals are served, while meals are being served, and at least 30 minutes after meals have been served.
- c. Queuing of patrons on private property in public view is prohibited.
- d. Use shall not be located closer than 600 feet from residentially zoned property, K--12 school licensed by the State of Nevada, or a child care center.
- e. Use shall not be located on an arterial or within the redevelopment district.
- f. Facilities serving men or the mentally ill may not be located within 600 feet of a public park.
- g. Any public meal provider and all homeless service providers shall obtain a business license regardless of federal tax status.
- h. Only one public meal provider may be licensed and operate within city limits.
- i. Only one of each of the following described providers may be licensed and operate within city limits: men, women and families and the mentally ill (for a total of three).

(9) School, primary (public or private). All primary schools (public or private) shall comply with the following use regulations:

- a. Parking. Pick-up and drop-off areas shall be provided on site.

(10) School, secondary (public or private). All secondary schools (public or private) shall comply with the following use regulations:

- a. Schools shall be located on a collector street or greater.

(11) School, vocational/trade (AC, CC, GO, MU). In the GO, AC, CC, and MU Zoning Districts only, vocational/trade school uses shall comply with the following regulations, as applicable:

- a. In the GO District only:

## Land Use Research

Billings, MT

- (6) For watercourse setbacks, see BMCC section 27-616.
  - (7) No above allowed building or structure nor any part thereof shall protrude into or hang over any public right-of-way.
  - (8) In the R-9,600, R-8,000, R-7,000, R-7,000R, R-6,000, R-6,000R, R-5,000 and Residential Manufactured Home zoning districts within the city limits detached accessory structure(s) greater than two hundred (200) square feet in size shall not exceed the principal building first story square footage on the lot or one thousand (1,000) square feet, whichever is less. If the lot is greater than one-quarter (.25) acres maximum total square footage of a detached accessory structure shall be as calculated in subsection(3) above or equal to the principal building first story square footage, whichever is less. No detached accessory structure within these residential zoning districts in the city limits shall exceed one thousand five hundred (1,500) square feet. The maximum total square footage in detached accessory structures on any lot within these residential zoning districts in the city limits shall not exceed two thousand (2,000) square feet or the total principal building first story square footage on the lot, whichever is less.
  - (9) In the R-9,600, R-8,000, R-7,000, R-7,000R, R-6,000, R-6,000R, R-5,000 and Residential Manufactured Home zoning districts within the city limits, horizontal exterior siding is required on detached accessory structures greater than two hundred (200) square feet in size.
- (Ord. No. 00-5113, § 1, 2-28-00; Ord. No. 04-5292, § 1, 7-26-04; Ord. No. 06-5378, § 3, 8-14-06)

**Sec. 27-311. Illustrations.**

FIGURE 1: YARD REQUIREMENTS: RESIDENTIAL

**GRAPHIC LINK:Figure 1**

- (a) *Front setback*
- (b) *Arterial setback*
- (c) *Side adjacent to street setback*
- (d) *Side setback*
- (e) *Rear setback*
- (f) *Detached accessory structure setback*
- (g) *Clear vision triangle at street intersections*
- (h) *Clear vision triangle at alley and drive entrances*
- (i) *Permitted projections*

FIGURE 2: YARD REQUIREMENTS: COMMERCIAL AND INDUSTRIAL

**GRAPHIC LINK:Figure 2**

- (a) *Front setback*
- (b) *Arterial setback: structures*
- (c) *Arterial setback: Required Parking and Driving Isle*
- (d) *Side setback*
- \*\*Side Minimum setbacks are fifteen (15) feet when contiguous to residential zones
- (e) *Side adjacent to street setback*
- (f) *Rear setback*
- (g) *Clear vision triangle at street intersections*
- (h) *Clear vision triangle at alley and drive entrances*

TABLE INSET:

	Front (b)	Side Adjacent to Street (b)	Side	Rear with Alley (c)	Rear without Alley
Buildings Less Than 18 Feet in Height (a) (d) (e) (f)					
Approach from a street	20	20	3	0	3
Approach at right angle from an alley	20	10	3	6	N/A
All others	20	10	3	0	3
Buildings Greater Than 18 Feet in Height Up To And Including The Maximum Allowed Height (a) (d) (e)					
Approach from a street	20	20	8	6	8
Approach at right angle from an alley	20	10	8	6	N/A
All others	20	10	8	6	8

- (a) All setbacks are denoted in feet from the property line.
- (b) In districts with Front or Side Adjacent to Street setbacks greater than those required in above Table 1, the structure shall meet the most restrictive setback requirement.
- (c) No above building or structure nor any part thereof shall protrude into or hang over the public right-of-way.
- (d) Structures located adjacent to arterial streets must meet the Arterial Setbacks as outlined in BMCC section 27-602.
- (e) Detached accessory buildings used to house, keep or shelter livestock or fowl shall meet the setbacks described in BMCC section 27-607.
- (f) The side wall of detached accessory buildings in the R-9,600, R-8,000, R-7,000, R-7,000R, R-6,000, R-6,000R, R-5,000 and Residential Manufactured Home zoning districts within the city limits shall be no greater in height than the side walls, excluding a gable wall, of an existing or proposed principal structure on the property.

N/A = Not Applicable

(2) Garages, carports and other accessory buildings attached to a dwelling shall be considered to be part of the dwelling and setbacks shall be the same as those required for such dwelling. In addition, garages and carports attached to the dwelling that have their approach from a street shall be setback from that street property line a minimum of twenty (20) feet or meet the front setback in the zoning district in which it is located, whichever is greater.

(3) Except in the R-9600, R-8,000, R-7,000, R-7,000R, R-6,000, R-6,000R, R-5,000, and Residential Manufactured Home zoning districts within the city limits the maximum size allowed for detached accessory structures shall be based on the following criteria, based on the size of the lot:

Lots containing less than one-quarter (.25) acre = 1,000 square feet maximum size.

Lots containing one-quarter (.25) acre up to one (1) acre shall use the following formula:

$$(.667 \times \text{lot acreage}) + 833 = \text{maximum detached structure size}$$

Lots containing more than one (1) acre = 1,500 square foot maximum size.

This provision shall not apply in the agricultural-open or agricultural-suburban zoning districts.

(4) Except in the R-9600, R-8,000, R-7,000, R-7,000R, R-6,000, R-6,000R, R-5,000 and Residential Manufactured Home zoning districts within the city limits, the maximum total square footage in detached accessory structures on any lot shall not exceed three thousand (3,000) square feet or that amount which, when added to the square footage of the principal structure(s), will achieve the maximum lot coverage allowable in that district, whichever is less. This three thousand (3,000) square foot limit shall not apply in the agricultural-open zoning district.

(5) See BMCC section 27-607, for setbacks regarding detached structures used to house livestock or fowl.

- (1) Area requirements are met for each structure as though it were on an individual lot;
  - (2) A minimum of ten (10) feet is maintained between principal structures;
  - (3) Side yard setbacks are provided between adjacent properties as required in the district;
  - (4) Principal structures are setback from alleys a minimum of twenty (20) feet; and
  - (5) Front yard setbacks as required in the district are provided on side streets when a side street frontage exceeds one hundred and fifty (150) feet.
- (c) *Division of lots.* No recorded lot or combination of lots shall be divided into smaller lots unless such division results in the creation of lots which conform to all of the applicable regulations of the zoning district in which the property is located.
- (d) *Lot sizes.* Yards or lots created after the effective date of this resolution/ordinance shall conform to all of the applicable requirements of the zoning district in which the property is located. In such case as no public water and/or sewer services are available, lot sizes shall also meet the minimum requirements of the Montana Department of Environmental Quality.
- (e) *Dwellings in commercial/industrial zones.*
- (1) In the residential professional, neighborhood commercial, community commercial, highway commercial, South 27th Street corridor and controlled industrial zones: Lot area, yard, and lot coverage requirements for dwelling units shall be the same as those in the RMF-R district.
  - (2) In the central business district zone: Lot area, yard, height, and lot coverage requirements for dwelling units shall not be applicable.
- (f) *Height exceptions.* The following requirements supplement those specific district regulations set forth in BMCC Sections 27-308 and 27-309:
- (1) The height limitations shall not apply to spires, belltowers, cupolas, antennas, water towers or tanks, chimneys or smokestacks, power transmission lines, cooling or elevator towers or similar and necessary appurtenances not used for human occupancy.
  - (2) Churches, schools, hospitals, nursing or retirement homes, or public buildings may exceed the height limitations of the district if the minimum depth of the front, side and rear yard setbacks are increased two (2) feet for every one (1) foot by which the structure exceeds the height limitation of the district. This allowed height shall not exceed two (2) times the allowed height in the zoning district in which it is located, without approval through the Variance procedure, as described in BMCC Sections 27-1506 (City) and 27-1511 (County).
  - (3) The maximum building height may be increased by up to ten (10) percent in all zoning districts when the majority of the roof pitch is 7:12 or steeper.
- (g) *Permitted projections.*
- (1) Residential districts: The following projections shall be permitted in required setbacks in residential districts:
    - a. Fireplaces and bay windows not to exceed two (2) feet;
    - b. Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet;
    - c. Open exterior stairways or decks not to exceed two (2) feet in side yards, four (4) feet in front yards, nor eight (8) feet in the rear yards;
    - d. Covered unenclosed porches over front stoops or walkways not to exceed four (4) feet;
    - e. The above projections are not permitted if they protrude into or hang over public right-of-way.
  - (2) Commercial and industrial districts: The following projections shall be permitted in required setbacks in commercial and industrial districts:
    - a. Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet;
    - b. Canopies not to exceed four (4) feet. For the purposes of this subsection, "canopies" are defined as covers that are solely attached to and supported by the structure on which it is attached to and which can be removed without destroying any part of that supporting structure.
  - (3) Ramps that provide accessibility.
  - (4) Exception. The above projections are not permitted if they protrude into or hang over public right-of-way.
- (h) *Required yards.* No part of a yard, other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this resolution/ordinance shall be included as part of a yard, open space for any other building.
- (i) *Yards and setbacks for accessory buildings in residential zones.* The following setbacks shall be provided for accessory buildings in residential zones:
- (1) Detached garages, carports, patios, tool or storage sheds, playhouses, greenhouses or other accessory buildings shall meet the setbacks required in below Table 1.

TABLE 1. Setbacks from Property Lines for Detached Garages, Carports, Tool or Storage Sheds, Greenhouses or Other Detached Accessory Structures



## ARTICLE 27-300. ZONING DISTRICTS AND OFFICIAL MAPS\*

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(Ord. No. 04-5292, § 1, 7-26-04)

**Sec. 27-309. Area, yard and height requirements—Commercial and industrial.****TABLE INSET:**

ZONING REQUIREMENTS	ZONING CLASSIFICATION DISTRICTS							
	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public
Minimum Lot Area Requirement in Square Feet: (a)	10,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Minimum Yard Requirements: (a)								
(b)								
Front	20	20	20	20	N/A	20	20	20
Side (c)	10	0	0	0	N/A	0	0	0
Side Adjacent to Street	10	10	10	10	N/A	10	10	10
Rear (c)	0	0	0	0	N/A	0	0	0
Maximum Height	34	34	45	45	N/A	70	N/A	N/A
Maximum Lot Coverage in Percent (a)	50	50	50	75	N/A	75	75	50

(a) For minimum lot size, yard and lot coverage requirements for residential dwellings in Commercial or Industrial zones, see BMCC section 27-310.

(b) For arterial setback and watercourse setback requirements, see BMCC sections 27-602 and 27-616, respectively.

(c) Side and rear setbacks shall be increased to fifteen (15) feet when contiguous to residentially zoned property.

(d) Minimum yard requirements and maximum height for property located in the South 27th Street Corridor zoning District are located in BMCC sections 27-810 and 27-811, respectively.

Note: • All height and setback requirements denote feet; all minimum lot area figures denote square footage.

• For height exceptions, see BMCC section 27-310(F).

• For permitted projections, see BMCC section 27-310(G).

• N/A = Not Applicable.

(Ord. No. 97-5048, § 3, 12-22-97; Ord. No. 04-5292, § 1, 7-26-04)

**Sec. 27-310. Supplemental area, yard and height restrictions.**

The following requirements provide exceptions or quality and supplement the specific district regulations set forth in this part. Planned developments shall be governed by BMCC section 27-1301, et seq.

(a) *Access for buildings.* All buildings and structures shall have vehicular access to a minimum width public street or an approved private street. Where the provision of the zoning code on this matter is more restrictive than the building code, then the zoning code restrictions shall be applied. A street shall provide the primary means of pedestrian access for any dwelling unit. Alleys, where they exist, shall provide only a secondary means of access.

(b) *Building groups.* In any residential or agricultural district, more than one (1) principal structure housing a permitted use may be located on a single lot or combination of lots provided that:

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• N/A = Not Applicable

BMLC rech: 27

(Ord. No. 97-5048, § 3, 12-22-97; Ord. No. 98-5058, § 1, 6-8-98; Ord. No. 98-5060, § 1, 7-13-98; Ord. No. 98-5064, § 2, 7-27-98; Ord. No. 99-5077, § 1, 2-8-99; Ord. No. 99-5078, § 1, 2-8-99; Ord. No. 00-5120, 5-8-00; Ord. No. 01-5165, § 2, 8-13-01; Ord. No. 02-5205, § 1, 6-10-02; Ord. No. 05-5330, § 3, 6-27-05; Ord. No. 05-5345, § 3, 10-11-05; Ord. No. 07-5423, § 3, 7-9-07)

There is adopted by the city council and board of county commissioners for the purpose of classifying the industries set forth in BMOC section 27-306, the whole 1987 Edition of the Standard Industrial Classification Manual, published by the Executive Office of the President, Office of Management and Budget, of which manual one copy is now filed in the offices of the city clerk and the county clerk and recorder, and the same is adopted and incorporated as fully as it set out at length in this chapter, and from the date on which this Resolution/Ordinance is adopted said manual shall take effect.

**Sec. 27-308. Area, yard and height requirements--Residential.**

## ZONING CLASSIFICATION DISTRICTS

8/9/2007

<http://library2.municode.com/1287/DocView/10441/1/1286/289>

Livestock and Fowl* (County only)	A*	A*	A*	A*						A*									A*
* See BMCC Section 27-607 for Minimum Area Requirements																			
Lumber, Plywood and Shingle Mills	SR																		
Manufactured Home Parks	SR	SR	SR																A
Parking, Public	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Pipelines and Distribution Lines (oil and gas) and Accessory Structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Publicly-owned or Government Operated Buildings and Uses	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Recreation:																			
Commercial	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Noncommercial	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Rehabilitative Centers	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Rodeos and Indoor and/or Outdoor Roping Arenas	SR																		
Schools (public or private):																			
Preschool, elementary, junior or senior high	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Colleges and universities	SR	SR																	
Trade or vocational-technical	SR	SR																	
Stables:																			
Commercial	A	SR																	
Private*	A*	A*	A*	A*						A*									A*
* See BMCC Section 27-607 for minimum Area Requirements	A-1	A-5	R-150	R-90	R-80	R-70R	R-70	R-60R	D-60	R-50	RHF	RHF-R	RHF						

8/19/2007

- (1) To exceed the height limitation;
- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area; or
- (4) To have a narrower or smaller rear yard, front yard, side yard or other open space than herein required, or in any manner contrary to the provisions of this chapter.

(c) Temporary suspension of various zoning and other regulations. Upon approval by resolution, the city council may temporarily suspend the requirements and restrictions imposed by sections 7-603, 15-602, 27-304, 27-305, 27-601 and 27-606 of the City Code in order to accommodate the temporary increase in visitor population created by large special events held within the City of Billings when the city's public lodging capability is actually or predicted to be at or near maximum capacity. The city council may suspend ordinances related to the following general areas of regulation in any combination deemed appropriate under the circumstances created by a special event. The resolution of suspension shall become effective forty-eight (48) hours prior to the official start of the scheduled event and shall terminate forty-eight (48) hours after official conclusion of the event.

(1) Parking;

(2) Camping;

(3) Business licensing and/or health department inspections.

**Sec. 27-305. District regulations: Residential uses.**

TABLE INSET:

Titles and Description of Industries	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000 Restricted	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
SR - Special Review A - Allowed													
Accessory Uses and Structures Associated with a Permitted Principal Structure	A	A	A	A	A	A	A	A	A	A	A	A	A
Agricultural Uses	A	A											
Amateur Radio Antenna Support Structures:													
100 Feet or Less in Height (See Section 27-619 for Additional Requirements)	A	A	A	A	A	A	A	A	A	A	A	A	A
Greater Than 100 Feet in Height	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Auction Houses (Excluding Livestock)	SR												

ARTICLE 27-300. ZONING DISTRICTS AND OFFICIAL MAPS\*

*ELC Entryway Light Commercial:* See *BMCC* section 27-1004.

*EGC Entryway General Commercial:* See *BMCC* section 27-1004.

*EMU Entryway Mixed Use:* See *BMCC* section 27-1004.

*South 27th Street corridor zoning district:* See *BMCC* Sections 27-801, et seq.

*Medical Corridor Permit Zoning District:* See *BMCC* Sections 27-901, et seq.

(Ord. No. 97-5048, § 3, 12-22-97; Ord. No. 04-5292, § 1, 7-26-04)

**Sec. 27-302. Official zoning map.**

- (a) The city and county are hereby divided into zoning districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.
- (b) The official zoning map shall be identified by the signature of the mayor attested by the city clerk and also by the county commissioners attested by the county clerk and recorder and shall bear the words "The official zoning map of the City of Billings and Yellowstone County, Montana 4 1/2 mile jurisdictional area". Regardless of the existence of purported copies of the official zoning map which from time to time may be made or published, a copy of the official map shall be located in the offices of both the Yellowstone County board of planning and the Yellowstone County clerk and recorder.
- (c) Changes made in district boundaries shall be promptly entered on the official zoning map after amendment by either governing body. Amendments to the official zoning map shall not become effective until entered on the map.
- (d) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the provisions set forth in this chapter. In the event the official zoning map is damaged or destroyed, the city council and county commissioners may, by resolution/ordinance, adopt a new official zoning map. No such map shall have the effect of amending the official zoning map or any subsequent amendment thereof.

**Sec. 27-303. Rules for interpretation of district boundaries.**

- (a) Boundaries indicated as appearing to follow the centerline of streets, highways or alleys shall be construed to follow such centerlines;
- (b) Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines;
- (c) Boundaries indicated as appearing to follow City Limits shall be construed as following City Limits;
- (d) Boundaries indicated as appearing to follow 4 1/2 Mile Jurisdictional Limits shall be construed as following 4 1/2 Mile Jurisdictional Limits;
- (e) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (f) Boundaries indicated as following shore lines shall be construed to follow such shore lines. In the event of change in the shore line, they shall be construed as moving with the actual shore line. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines. In the event of change in the location of streams, rivers, canals, lakes or other bodies of water, the boundaries shall be construed as moving with the actual body of water and following the centerlines; and
- (g) Boundaries indicated as parallel to or extensions of features indicated in above Subsections A. through F. above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map or by specific distances enumerated in a Resolution/Ordinance amending the Official Zoning Map.

(Ord. No. 97-5048, § 3, 12-22-97)

**Sec. 27-304. Application and general rules.**

Within the various zoning districts as hereinbefore defined and as indicated on the official zoning map and subject to the requirements of *BMCC* sections 27-301 through 27-1511, no building or structure shall be erected, reconstructed or structurally altered, nor shall any land, building or structure be used for any purpose except as they are allowed in the district in which such building, land or use is located. The regulations set forth by this chapter within each zone shall be minimum regulations and shall apply uniformly to each class or type of structure or land except as hereinafter provided:

- (a) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered after the effective date of this chapter unless in conformity with all of the regulations herein specified for the zone in which it is located except nonconforming uses and structures as provided in *BMCC* sections 27-401, et seq.;
- (b) No building or other structure shall hereafter be erected or altered;

South 27th Street Corridor Zoning District
Medical Corridor Permit Zoning District

**A-1 Agricultural-Open Space (county only):** A district to protect and preserve agricultural lands for the performance of a wide range of agricultural functions. The intent is to limit the scattered intrusion of uses not compatible with an agricultural environment; to encourage agricultural pursuits and protect environmental concerns.

**A-S Agricultural-Suburban (county only):** A district to protect and preserve agricultural lands for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses and to encourage concentration of such uses in areas so that potential conflict between uses will be minimized.

**R-150 Residential 15,000 (county only):** A zone intended to provide for low density, single-family residential developments in areas which may or may not be serviced by a public water and/or sewer system.

**R-96 Residential 9,600:** A zone intended to promote primarily a single-family residential environment on lots that are served by public water and sewer service.

**R-80 Residential 8,000:** A residential zone intended to primarily provide a single-family residential environment with provisions for duplexes that are served by public water and sewer service.

**R-70R Residential 7,000 Restricted:** a residential zone intended to primarily provide a single family residential environment on smaller lots at a medium density that are served by a public water and sewer service.

**R-70 Residential 7,000:** Primarily a single-family residence district, with provisions for duplexes on lots that are served by public water and sewer services.

**R-60R Residential 6,000 Restricted:** A residential zone intended to primarily provide a single family residential environment on smaller lots at a medium density that are served by a public water and sewer service.

**R-60 Residential 6,000:** A zone intended to provide for medium density residential dwellings on lots served by public water and sewer services, with provisions for multi-family dwellings with a maximum of ten (10) dwelling units per structure.

**R-50 Residential 5,000:** A primarily single-family district provides for higher density development on lots served by public water and sewer services, with provisions for duplexes.

**RMF Residential Multi-family:** A residential classification intended to provide adequate sites for multi-family developments including high-rise apartment complexes. Dwelling unit density is increased in this classification to encourage development in areas where it will complement existing developments. Land within the classification should be located with access to major arterial transportation routes plus financial, cultural and retail stores and be served by public water and sewer services.

**RMF-R Residential Multi-family-Restricted:** A residential classification intended to provide adequate sites for multi-family developments. The classification is intended to provide higher density apartment development, which may establish a buffer between single-family residence areas and other zoning classifications. Lots are to be served by public water and sewer services.

**RMH Residential Manufactured Home:** A zone intended to provide stable environments for individual manufactured homes, manufactured home parks and compatible accessory uses.

**RP Residential Professional:** A zone intended to accommodate limited commercial and professional offices as would be compatible with adjoining residential districts and consistent with the objectives of the comprehensive plan.

**NC Neighborhood Commercial:** A zone for commercial centers and limited retail activities conducted in a unified development designed to serve the surrounding neighborhood with shopping facilities consisting of convenience retail and personal service establishments which secure their principal trade by supplying the daily needs of the neighboring population. Only uses serving the above purpose without undue detriment to surrounding residences should be permitted.

**CC Community Commercial:** The community commercial zone is intended primarily to accommodate community retail, service and office facilities offering a greater variety than would normally be found in a neighborhood or convenience retail development. Facilities within the classification will generally serve the community, and is commensurate with the purchasing power and needs of the present and potential population within the trade area. It is intended that these business facilities be provided in business corridors or in islands (thirty (30) acres) centrally located in the trade area rather than a strip development along arterials.

**HC Highway Commercial:** The highway commercial zone is intended to provide areas for commercial and service enterprises which are intended primarily to serve the needs of the tourist, traveler, recreationist or the general traveling public. Areas designated as Highway Commercial should be located in the vicinity of, and accessible from interstate interchanges, intersections on limited access highways, or adjacent to primary or secondary highways. The manner in which the services and commercial activities are offered should be carefully planned in order to minimize the hazard to the safety of the surrounding community and those who use such facilities.

**CBD Central Business District:** The central business district classification is intended to primarily accommodate stores, hotels, governmental and cultural centers and service establishments at the central focal point of the city's arterial and transportation system, where the C.B.D. can conveniently serve the population of the entire urban area with a varied and specialized selection of goods and services. In order to protect the public interest and welfare and facilitate an attractive, efficient and prosperous C.B.D., the emphasis is on larger scale building and specialty shops.

**CI Controlled Industrial:** The controlled industrial zone is intended to accommodate a variety of business, warehouse and light industrial uses related to wholesale plus other business and light industries not compatible with other commercial zones, but which need not be restricted in industrial or general commercial zones, and to provide locations directly accessible to arterial and other transportation systems where they can conveniently serve the business and industrial centers of the city and county.

**HI Heavy Industrial:** A zone intended to accommodate manufacturing, processing, fabrication, and assembly of materials and products. Areas designated as Heavy Industrial should have access to two (2) or more major transportation routes, and such sites should have adjacent space for parking and loading facilities.

**P Public:** The public zone is intended to reserve land exclusively for public or semi-public uses in order to preserve and provide adequate land for a variety of community facilities which serve the public health, safety and general welfare.

**ARTICLE 27-300. ZONING DISTRICTS AND OFFICIAL MAPS\***

\*Editor's note: Ord. No. 97-5048, § 3, adopted Dec. 22, 1997 repealed former Art. 27-300, §§ 27-301-27-305, in its entirety and enacted new provisions as herein set out. Former Art. 27-300 pertained to district regulations. See the Code Comparative Table at the end of this volume for a listing of ordinances affecting repeated sections.

**Sec. 27-301. Zoning Districts.**

It is the intent of this section to establish zones wherein compatible uses of land may be located to create, protect and maintain a desirable living environment, to stabilize and protect residential harmony and to conduct profitable businesses. It is also the intent of this Chapter to make it possible to efficiently and economically design and install public facilities in terms of size and capacity to adequately meet the needs resulting from a defined intensity of land use.

To carry out the provisions of this chapter, the city and county 4 1/2 mile jurisdictional area is hereby divided into the following zoning districts in which the erection, construction, alteration, reconstruction, repair or use of buildings, structures and land shall be regulated and restricted. The regulations in each district shall be uniform throughout each district but may differ from those in other districts.

**TABLE INSET:**

A-1	Agricultural-Open Space (County Only)
A-S	Agricultural-Suburban (County Only)
R-150	Residential 15,000 (County Only)
R-96	Residential 9,600
R-80	Residential 8,000
R-70R	Residential 7,000 Restricted
R-70	Residential 7,000
R-60R	Residential 6,000 Restricted
R-60	Residential 6,000
R-50	Residential 5,000
RMF	Residential Multi-Family
RMF-R	Residential Multi-Family - Restricted
RMH	Residential Manufactured Home
RP	Residential Professional
NC	Neighborhood Commercial
CC	Community Commercial
HC	Highway Commercial
CBD	Central Business District
CI	Controlled Industrial
HI	Heavy Industrial
P	Public
ELC	Entryway Light Commercial
EGC	Entryway General Commercial
EMU	Entryway Mixed Use
EII	Entryway Light Industrial

B. King



Land Use Research

Irvine, CA

## CHAPTER 3-37. ZONING DISTRICT LAND USE REGULATIONS AND DEVELOPMENT STANDARDS

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Sec. 3-37-31. 5.2 IBC Industrial.  
Sec. 3-37-32. 5.3 IBC Residential.  
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Sec. 3-37-35. 5.6 Business Park.  
Sec. 3-37-36. Reserved.  
Sec. 3-37-37. 6.1 Institutional.  
Sec. 3-37-38. 7.1 Military.  
Sec. 3-37-39. 8.1 Lifelong Learning District.

### Sec. 3-37-1. Establishment of zoning districts; list of zoning districts.

#### A. *Establishment of zoning districts.*

1. The following tables list land use categories established by this zoning ordinance. The zoning land use districts are identified by a number and a descriptive name (e.g., 2.3 Low Density Residential).
2. The zoning maps as illustrated in division 9 depict the zoning districts for each planning area. The land use districts are denoted by the numerical description (e.g., 2.2 for Low Density Residential) with the full description listed in the index on each map. An exception to this rule has been reserved for the (1.2) Development Reserve and (1.3) Conservation and Open Space Reserve zoning districts. These two districts function as land reserve zones and are denoted on the maps in division 9 by their Geobasecode. Because the ultimate zoning category intended for these areas is included in the Geobase code, the Geobase code on the zoning map also highlights the requirement that a rezoning must occur before development of the land can occur. Exception to this

requirement is development in accordance with the uses listed for each district as noted in this chapter 3-37.

B. *List of zoning districts.*

- 1.1 Exclusive Agriculture
- 1.2 Development Reserve
- 1.3 Conservation/Open Space Reserve
- 1.4 Preservation
- 1.5 Recreation
- 1.6 Water Bodies
- 1.7 Landfill Overlay
- 1.8 Golf Course Overlay

- 2.1 Estate Density Residential
- 2.2 Low Density Residential
- 2.3 Medium Density Residential
- 2.4 Medium-High Density Residential
- 2.5 High Density Residential

3.1 Multi-Use

- 4.1 Neighborhood Commercial
- 4.2 Community Commercial
- 4.3 Vehicle-Related Commercial
- 4.4 Commercial Recreation
- 4.5 Regional Commercial
- 4.6 Retail Office
- 4.7 Urban Commercial
- 4.8 Irvine Center Garden Commercial
- 4.9 LPC Regional Commercial

- 5.1 IBC Multi-Use
- 5.2 IBC Industrial
- 5.3 IBC Residential
- 5.4 General Industrial
- 5.5 Medical and Science
- 5.6 Business Park

6.1 Institutional

7.1 Military

8.1 Lifelong Learning District

(Code 1976, § V.E-325; Ord. No. 92-3, 4-14-92; Ord. No. 92-21, § 6, 11-24-92; Ord. No. 93-7, 6-22-93; Ord. No. 93-14, § 3, 10-12-93; Ord. No. 94-2, § 3, 2-8-94; Ord. No. 94-7, § 3, 6-14-94; Ord. No. 94-15, § 3, 12-13-94; Ord. No. 94-16, 12-13-94; Ord. No. 95-3, § 3B, 4-25-95; Ord. No. 95-4, § 1, 5-9-95; Ord. No. 95-7, § 4, 7-11-95; Ord. No. 95-8, § 3, 7-11-95; Ord. No. 95-12, § 3, 9-12-95; Ord. No. 95-16, § 2, 10-10-95; Ord. No. 96-2, § 2, 1-23-96; Ord. No. 96-18, § 4, 12-10-96; Ord. No. 97-06, § 3, 5-13-97; Ord. No. 06-18, § 4, 10-24-06)

*Residential care facility:* Any family home, group care facility or similar facility providing 24-hour non-medical services, supervision or assistance essential for sustaining the activities of daily living. Residential care facility includes shelters, board and care facilities, halfway houses, wards of the juvenile court and the like and excludes Sober Living Facilities.

*Residential, dormitory:* A building or space within a building, to be used for college/university-level education facilities, which provides group sleeping, living and sanitary accommodations for persons attending the college/university who are not members of the same family. Such accommodations may include limited eating and cooking facilities.

*Residential, institutional:* A residential use associated with an institutional use, such as a school or hospital.

*Residential, nonprofit:* A residential use associated with the charitable provision of permanent and/or temporary housing, such as shelters and single-room occupancy housing.

*Residential, second unit:* A second residential unit built on land zoned for residential use, on the same lot as an existing single-family dwelling unit intended for residency by one family or household, and containing one or more rooms with sleeping, kitchen and sanitation facilities. Kitchen facilities include cooking appliances and a sink that measures 200 or more square inches in surface area, or a sink that measures less than 200 square inches in surface area augmented by an automated dishwasher. Sanitation facilities include toilet, sink, bathtub and/or shower.

*Residential shelter facility:* Any family home, group care facility or similar facility providing temporary 24-hour nonmedical services, supervision or assistance essential for the protection of the individual. Residential shelter facility includes shelters for victims seeking temporary refuge from domestic violence or abuse.

*Residential, single-family detached:* A development with each dwelling unit situated on a residential lot of record with no lot containing more than one dwelling unit. The design of a single-family detached development may include such concepts as "zero lot line" and "small lot development." In addition, a development with each lot of record containing more than one single-family detached for-sale dwelling unit shall be subject to "residential, attached" development standards.

*Residential, small lot development:* A single-family detached development consisting of lots between 2,400 and 4,000 square feet in size.

*Residential uses:* Any use which consists specifically of residential units. For purposes of applying setback criteria, residential uses do not include commercial, office, industrial and/or institutional uses, and any trails, parks or recreational facilities (see "Nonresidential uses").

*Residual repository:* A waste disposal facility specifically restricted to receiving only residuals from hazardous waste treatment facilities.

*Rest home:* See "Convalescent home."

*Restaurant:* A business establishment whose principal activity is the selling of unpackaged food to the general public in a ready-to-consume state, in individual servings, usually in nondisposable containers. The customer generally consumes these foods while seated at tables or counters located within the building.

*Restaurant, ABC license "Type 47" operating after 12:00 a.m.:* A restaurant granted a Type 47 license from the Alcohol Beverage Control Department to sell and serve onsite alcohol beverages in a bona fide eating establishment operating after 12:00 a.m.

*Restaurant, fast food:* An establishment whose principal business is the sale of prepared, "take-out" or rapidly pre-prepared food served in disposable packaging directly to the customer, for consumption either within the restaurant or off the premises.

*Restricted parking:* A situation where off-street parking is permitted on the street frontage, or where on-street parking is prohibited during specified hours every day.

*Sign, temporary:* A sign, usually constructed of cloth or fabric, cardboard, wallboard, wood or other light material, intended to be displayed for a short period of time as set forth in division 7.

*Sign, thruway directional:* A directional sign designed for City use along the thruway system which consists of four panels listing the names of villages.

*Sign, village directional:* A directional sign designed for City use consisting of panels listing the names of villages. The sign shall consist of one to six panels, depending upon the number of villages.

*Sign, village identification:* A sign which displays the name of the village within which it is located.

*Sign, wall:* A sign attached to the exterior wall of a building or structure with the exposed face of the sign in a plane approximately parallel to the plane of the exterior wall.

*Sign, window:* Any sign, exposed to public view, attached, painted, or pasted, either permanently or temporarily, on the interior or exterior of a window.

*Single-room occupancy hotel (SRO):* A hotel which provides short- and longer-term private living accommodations. SRO's may be owned by a nonprofit or for-profit entity. They may provide for low-income affordability or be market rate projects.

*Single-tenant site:* Occupied by one owner or lessee.

*Site:* A site consists of a parcel or parcels which are developed and planned as a unit for either residential or nonresidential developments. A site may be subdivided into smaller lots or into condominiums provided there is a mandatory owners' association. In single-family detached developments, the site is synonymous with the individual single-family lot.

*Site area, gross:* The total area of a site measured to the centerline of all adjacent streets.

*Site area, net:* The total area of a site excluding all public and private streets and all easements that prohibit the surface use of a portion of the property.

*Site coverage (building coverage):* The relationship between the net site area and the building footprint area on the site.

*Skyline sign:* See "Sign, skyline."

*Small collection facility:* An area and/or structure of less than 300 square feet which accepts delivery of source-separated materials, including but not limited to glass, paper and plastics. Materials may be accepted for compensation or as donations, and are intended for transfer to a larger facility for processing. A small collection facility is intended for day-to-day collection of materials and does not include power-driven processing equipment. A group of seven or more reverse vending machines shall be considered a small collection facility. See also "Large collection facility" and "Reverse vending machine."

*Sober living facilities:* Any house, institution, hotel, or similar place that provides room and board, or rooms only, and operates as a drug and alcohol free residential facility.

**Sec. 3-37-13. 2.2 Low Density Residential.**

A. *Intent.* This category allows zero to 6.5 dwelling units per net acre, which is approximately equivalent to the general plan Low Density category of zero to five dwelling units per gross acre. Attached and conventional housing, as well as other appropriate uses such as churches and child care centers, are allowed.

(2.2A and 2.2B) University Park (Planning Area 20)

(2.2C) Westpark (Planning Area 14)

(2.2D) Planning Area 1

B. *Intensity standard.*

0--6.5 dwelling units per net acre

2.2C: 0--6.9 dwelling units per net acre (Westpark)

2.2D: 0--31.0 dwelling units per net acre (Planning Area 1). Individual project densities in 2.2D may exceed 6.5 dwelling units/net acre. However, no individual project may exceed 31.0 dwelling units/net acre and the overall density within all of 2.2D cannot exceed 6.5 dwelling units/net acre. For individual residential projects within 2.2D, the development standards to be applied shall depend on the actual net density of the individual residential product as follows:

1. For projects from 0 to 6.5 dwelling units per net acre, Section 3-37-13 development standards shall apply.
2. For projects from 6.6 to 12.5 dwelling units per net acre, Section 2-37-14 development standards shall apply.
3. For projects from 12.6 to 31.0 dwelling units per net acre, Section 3-37-15 development standards shall apply.

C. *Permitted uses. 1*

1. Accessory use.
2. Agriculture (interim use).
3. Home care.
4. Home occupation permit.
5. Information center.
6. Large family child care permit.
7. Manufactured structure (up to two years).
8. Model home sales complex.
9. Park.
10. Public park facility (only in public parks).
11. Residential shelter.
12. Residential, attached.
13. Residential, single-family detached.
14. School, public.
15. Wireless Communication Facility (may require a wireless communication facility permit, a minor conditional use permit, a major conditional use permit or may be

prohibited, depending on the type of installation and the location of the installation site, pursuant to the review procedures matrix in Section 2-37.5-3.

D. *Conditional uses.* 2

1. Boarding house.
2. Child care center.
3. Church.
4. Community facility.
5. Convalescent home.
6. Manufactured structure (over two years).
7. Recreational vehicle storage, private.
8. Residential care facility.
9. Residential, second unit.
10. School, private.
4. Senior housing.
12. Utility building and facility.

TABLE INSET:

E.	<i>Minimum site size</i>		4,000 square feet
			2.2D: 3,000 square feet
F.	<i>Maximum site coverage</i>		50%
G.	<i>Maximum building height</i>		35 feet
H.	<i>Minimum site landscaping</i>		Not applicable to Low Density Residential
I.	<i>Building setbacks 5 from:</i>		
		Freeways, transportation corridors	50 feet
		Major highways	50 feet
		Primary highways	42 feet
		Secondary highways:	
		In nonresidential areas	35 feet
		In residential areas	25 feet
		Commuter highways and	15 feet 2.2A: 20 feet

		local streets	2.3C: 15-foot average, 10-foot minimum (Westpark)
		North-south San Diego Creek ROW	2.2C: 50-foot minimum parking setback with 65-foot average setback; 65-foot building setback with 75-foot average setback (Westpark)
		East-west San Diego Creek ROW	2.2C: 30 feet (Westpark)
		Private drives	10 feet
		Interior boundary if adjacent to residential uses:	
		Side	5 feet
		Rear	10 feet
		Interior boundary if adjacent to nonresidential uses:	
		Side	10 feet
		Rear	10 feet
		Building to building	6 feet

1 Some permitted uses may have to conform to or fulfill conditions of approval imposed in conjunction with previous discretionary approvals. Additionally, a master plan application may need to be processed (see chapter 2-17).

2 A master plan application may be required in addition to a conditional use permit (see chapter 2-17).

3 A church that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit (CUP).

4 A private school for adults (18 years and older) that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit.

5 Exceptions to these building setback requirements appear on the setback exceptions matrix in section 3-27-2.

(Code 1976, § V.E-325.2.2; Ord. No. 92-3, 4-14-92; Ord. No. 92-21, § 6, 11-24-92; Ord. No. 93-7, 6-22-93; Ord. No. 93-14, § 3, 10-12-93; Ord. No. 94-2, § 3, 2-8-94; Ord. No. 94-7, § 3, 6-14-94; Ord. No. 94-15, § 3, 12-13-94; Ord. No. 94-16, 12-13-94; Ord. No. 95-3, § 3B, 4-25-95; Ord. No. 95-4, § 1, 5-9-95; Ord. No. 95-7, § 4, 7-11-95; Ord. No. 95-8, § 3, 7-11-95; Ord. No. 95-12, § 3, 9-12-95; Ord. No. 95-16, § 2, 10-10-95; Ord. No. 96-2, § 2, 1-23-96; Ord. No. 96-18, § 4, 12-10-96; Ord. No. 05-12, § 6, 6-28-05; Ord. No. 05-13, § 4, 7-12-05; Ord. No. 05-16, § 2, 7-12-05)

### Sec. 3-37-14. 2.3 Medium Density Residential.

A. *Intent.* This category allows zero to 12.5 dwelling units per net acre as either single-family detached or attached dwelling units. This corresponds to the Medium Density category of zero to ten dwelling units per gross acre.



TABLE INSET:

(2.3A)	University Town Center
(2.3B)	University Park
(2.3C)	Westpark
(2.3D)	Harvard Square (Planning Area 10)
(2.3E)	Reserved
(2.3F)	Lower Peters Canyon 1
(2.3G)	Planning Area 17
(2.3H)	Planning Area 8
(2.3I)	Planning Area 5
(2.3J)	Planning Area 9
(2.3K)	Planning Area 6 (Portola Springs)
(2.3L)	Planning Area 38 west of Harvard Avenue
(2.3M)	Lambert Ranch (Planning Area 6)

**B. Intensity standard.**

0–12.5 dwelling units per net acre

2.3C: 0–13.0 dwelling units per net acre (Westpark)

2.3D: Individual project densities may exceed 12.5 dwelling units per acre provided that the total number of dwelling units does not exceed 8,000 within Planning Area 4 (Lower Peters Canyon).

2.3F: Individual project densities may exceed 12.5 dwelling units per acre provided that the total number of dwelling units does not exceed 8,000 within Planning Area 4 (Lower Peters Canyon).

2.3G: Individual project densities may exceed 12.5 dwelling units per acre provided that the total number of dwelling units does not exceed 2,673 within Planning Area 17.

2.3H: Individual project densities may exceed 12.5 dwelling units per acre provided that the provisions of section 9-6-7B are met.

2.3I: Individual project densities may exceed 12.5 dwelling units per acre provided that the provisions of section 9-5-7B are met.

2.3J: Individual project densities may exceed 12.5 dwelling units per acre provided that the provisions of section 9-9-7B are met.<sup>2</sup>

2.3K: Individual project densities may exceed 12.5 dwelling units per acre provided that the provisions of section 9-6-7B are met.

2.3L: Individual project densities may exceed 12.5 dwelling units per acre provided that the total number of dwelling units west of Harvard Avenue in Planning Area 38 does not exceed 552 units, and the total number of dwelling units west of Harvard Avenue south of Warner Avenue does not exceed 409 units.

**C. Permitted uses<sup>3</sup>**

1. Accessory use.
2. Agriculture (interim use).
3. Home care.

4. Home occupation permit.
5. Information center.
6. Large family child care permit.
7. Manufactured structure (up to two years).
8. Model home sales complex.
9. Park.
10. Public park facility (only in public parks).
11. Residential shelter.
12. Residential, attached.
13. Residential, single-family detached.
14. School, public.
15. Wireless Communication Facility (may require a wireless communication facility permit, a minor conditional use permit, a major conditional use permit or may be prohibited, depending on the type of installation and the location of the installation site, pursuant to the review procedures matrix in Section 2-37.5-3.

D. *Conditional uses.* 4

1. Boarding house.
2. Child care center.
3. Church.<sup>5</sup>
4. Community facility.
5. Congregate care facility.
6. Convalescent home.
7. Manufactured structure (over two years).
8. Recreational vehicle storage, private.
9. Residential care facility.
10. Residential, second units.
11. School, private.<sup>6</sup>
12. Senior housing.
13. Utility building and facility.

TABLE INSET:

E.	<i>Minimum site size</i>	2,400 square feet
F.	<i>Minimum building site area</i>	2.3F: 3,000 square feet (Lower Peters Canyon)
G.	<i>Maximum site coverage</i>	
H.		

		<i>Maximum building height</i>	35 feet 7
			2.3A: 50 feet (University Town Center)
			2.3F: 40 feet (Multifamily only) 8
I.		<i>Minimum site landscaping</i>	30%
			2.3F: Not applicable (Lower Peters Canyon)
J.		<i>Minimum open space area</i>	2.3F: 5% (multifamily only) 9
K.		<i>Building setbacks 10 from:</i>	
		Freeways, transportation corridors:	50 feet
			2.3F 11 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
		Major highways:	50 feet
			2.3F 10 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
		Primary highways:	42 feet
			2.3F 10 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
		Secondary highways:	
		In nonresidential areas	35 feet
			2.3F 10 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
		In residential areas	25 feet
			2.3F 10 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
		Commuter highways and local streets	15 feet
			2.3C, 2.3F 10 : 15-foot average, 10-foot minimum (Westpark and Lower Peters Canyon)
		North/south San Diego Creek ROW	2.3C: 50-foot minimum parking setback with 65-foot average setback; 65-foot building setback with 75-foot average setback (Westpark)
		East/west San Diego Creek ROW	2.3C: 30 feet (Westpark)
		Private drives	10 feet
		Interior boundary if adjacent to residential uses:	
		Side	5 feet

			Rear	10 feet
			Interior boundary if adjacent to nonresidential uses:	
			Side	10 feet
			Rear	10 feet
			Building to building	6 feet
			2.3F: (Lower Peters Canyon): 12, 13	
			Front:	
			From sidewalk or back of curb	10 feet
			Garage or carport	8 feet/18 feet 14
			Side:	
			Interior	No minimum
			From street	10 feet
			Rear	10 feet

1 Permitted and conditional uses within Planning Area 4 (Lower Peters Canyon) are outlined in section 9-4-4, as provided through the Lower Peters Canyon development agreement.

2 For 2.3J, residential structures within 325 feet of the curb face at the ultimate width of Jeffrey Road, shall be limited to two (2) stories.

3 Some permitted uses may have to conform to or fulfill conditions of approval imposed in conjunction with previous discretionary approvals. Additionally, a master plan application may need to be processed (see chapter 2-17).

4 A master plan application may be required in addition to a conditional use permit (see chapter 2-17).

5 A church that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit (CUP).

6 A private school for adults (18 years and older) that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit.

7 In 2.3F: (Lower Peters Canyon), screened mechanical units and chimneys that do not exceed ten percent of the roof area may extend up to 43 feet.

8 Multifamily residential buildings within 2.3F: (Lower Peters Canyon) shall allow screened mechanical units and chimneys that do not exceed ten percent of the roof area to extend up to 48 feet.

9 The following elements shall not be included as open space: streets, common driveways,

slopes greater than 4:1 incline, and any property not reserved for the sole use and enjoyment of the occupants of the project and their guests.

10 Exceptions to these building setback requirements (except 2.3F: Lower Peters Canyon) appear on the setback exceptions matrix in section 3-27-2.

11 Measured from back of curb. See exhibits 3a and 3b in chapter 9-4.

12 No attached or detached covered patio shall be located closer than three feet to a property line. If the patio is located on the streetside property line of a corner lot, the patio shall not be located closer than five feet to the property line.

13 Eaves, cornices, chimneys, outside staircases, balconies and similar architectural features may project a maximum of four feet into any required setback or one foot from the property line, whichever is less.

14 The point of vehicular entry to a garage or carport shall be a distance of eight feet or less from back of curb, or 18 feet or more from the back of the sidewalk, or if there is no sidewalk, from the back of the curb.

(Code 1976, § V.E-325.2.3; Ord. No. 92-3, 4-14-92; Ord. No. 92-21, § 6, 11-24-92; Ord. No. 93-7, 6-22-93; Ord. No. 93-14, § 3, 10-12-93; Ord. No. 94-2, § 3, 2-8-94; Ord. No. 94-7, § 3, 6-14-94; Ord. No. 94-15, § 3, 12-13-94; Ord. No. 94-16, 12-13-94; Ord. No. 95-3, § 3B, 4-25-95; Ord. No. 95-4, § 1, 5-9-95; Ord. No. 95-7, § 4, 7-11-95; Ord. No. 95-8, § 3, 7-11-95; Ord. No. 95-12, § 3, 9-12-95; Ord. No. 95-16, § 2, 10-10-95; Ord. No. 96-2, § 2, 1-23-96; Ord. No. 96-18, § 4, 12-10-96; Ord. No. 97-06, § 3, 5-13-97; Ord. No. 00-11, § 3.B, 10-10-00; Ord. No. 02-09, §§ 1-7, 6-11-02; Ord. No. 03-02, § 4, 1-14-03; Ord. No. 05-02, § 5, 1-11-05; Ord. No. 05-13, § 4, 7-12-05; Ord. No. 05-16, § 2, 7-12-05; Ord. No. 06-17, § 4, 9-26-06)

#### **Sec. 3-37-15. 2.4 Medium-High Density Residential.**

A. *Intent* . This category allows zero to 50.0 dwelling units per net acre and corresponds to the general plan Medium-High Density category of zero to 25 units per gross acre. This category is intended for attached and detached single-family residential units and compatible uses.

TABLE INSET:

(2.4A)	University Town Center (Planning Area 24)
(2.4B)	University Town Center (Planning Area 24)
(2.4C)	Woodbridge (Planning Area 15)
(2.4D)	Woodbridge (Planning Area 15)
(2.4E)	Westpark (Planning Area 14)
(2.4F)	Lower Peters Canyon
(2.4G)	Planning Area 9
(2.4H)	Planning Area 39

B. *Intensity standard.*

0--31.0 dwelling units per net acre

2.4C: 0--31.0 dwelling units per net acre (Woodbridge)

2.4D: 0--31.0 dwelling units per net acre (Woodbridge)

2.4E: 0--31.0 dwelling units per net acre (Westpark)

2.4H: 0--50.0 dwelling units per net acre (Projects may exceed 50 DU/acre in Planning Area 39)

subject to Planning Commission approval of a Master Plan and/or Conditional Use Permit)

C. *Permitted uses.* 2

1. Accessory use.
2. Agriculture (interim use).
3. Home care.
4. Home occupation permit.
5. Information center.
6. Large family child care permit.
7. Manufactured structure permit (up to two years).
8. Model home sales complex.
9. Park.
10. Public park facility (only in public parks).
11. Residential shelter.
12. Residential, attached.
13. Residential, single-family detached.
14. School, public.
15. Wireless Communication Facility (may require a wireless communication facility permit, a minor conditional use permit, a major conditional use permit or may be prohibited, depending on the type of installation and the location of the installation site, pursuant to the review procedures matrix in Section 2-37.5-3).

D. *Conditional uses.* 3

1. Boarding house.
2. Child care center.
3. Church.<sup>4</sup>
4. Commercial recreation (under 1,500 square feet) (only in 2.4B University Town Center).
5. Commercial recreation (over 1,500 square feet) (only in 2.4B University Town Center).
6. Community facility.
7. Congregate care facility.
8. Convalescent home.
9. Manufactured structure (over two years).
10. Recreational vehicle storage, private.
11. Residential care facility.
12. Residential, second units.
13. School, private.<sup>5</sup>
14. Senior housing.
15. Utility building and facility.

TABLE INSET:

E.	<i>Minimum site size</i>	0.5 acre (all uses except single-family detached) 2,400 square feet (single-family detached only) 2.4F: Not applicable (Lower Peters Canyon)
F.	<i>Minimum building site area</i>	2.4F: 3,000 square feet (Lower Peters Canyon) 6
G.	<i>Maximum site coverage:</i>	
	All uses except single-family detached	Unlimited
	Single-family detached	50%
H.	<i>Maximum building height:</i>	
	All uses except single-family detached	50 feet 2.4A: 6 stories (University Town Center) 2.4E: Architectural features may be permitted to exceed maximum building heights (Westpark) 2.4F: 35 feet 7 40 feet (multifamily only) 8
I.	<i>Minimum site landscaping:</i>	
	All uses except single-family detached	30% 2.4F: Not applicable (Lower Peters Canyon)
	Single-family detached	Not applicable
J.	<i>Minimum open space area</i>	2.4F: 5% (multifamily only) 9
K.	<i>Building setbacks 10 from:</i>	
	Freeways, transportation corridors	50 feet 2.4F 11 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
	Major highways	50 feet 2.4F 11 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
	Primary highways	42 feet 2.4F 11 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
	Secondary highways:	
	In nonresidential areas	35 feet 2.4F 11 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
	In residential areas	25 feet 2.4F 11 : 25 feet, 45 feet along open space spine (Lower Peters Canyon)
	Commuter highways and local streets	15 feet 2.4E: 15-foot average, 10-foot minimum (Westpark)

		North/south San Diego Creek ROW	2.4E: 50-foot minimum parking setback with 65-foot average setback; 65-foot building setback with 75-foot average setback (Westpark)
		East/west San Diego Creek ROW	2.4E: 30 feet (Westpark)
		Private drives	10 feet
		Interior boundary if adjacent to residential uses:	
		Side, all uses except single-family detached	10 feet plus 2 feet for every 5 feet in height over 30 feet
		Side, single-family detached	5 feet
		Rear	10 feet plus 2 feet for every 5 feet in height over 30 feet
		Interior boundary if adjacent to nonresidential uses:	
		Side	10 feet
		Rear	10 feet
		Building to building:	
		All uses except single-family detached	10 feet
		Single-family detached	6 feet

1 Permitted and conditional uses within Planning Area 4 (Lower Peters Canyon) are outlined in section 9-4-4, as provided through the Lower Peters Canyon development agreement.

2 Some permitted uses may have to conform to or fulfill conditions of approval imposed in conjunction with previous discretionary approvals. Additionally, a master plan application may need to be processed (see chapter 2-17).

3 A master plan application may be required in addition to a conditional use permit (see chapter 2-17).

4 A church that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit (CUP).

5 A private school for adults (18 years and older) that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit.

6 The gross land area per dwelling unit for single-family attached and multifamily residential sites within 2.4F (Lower Peters Canyon) shall be 1,000 square feet, regardless of the slope of the land.

7 In 2.4F (Lower Peters Canyon), screened mechanical units and chimneys that do not exceed ten percent of the roof area may extend up to 43 feet.

8 Multifamily residential buildings within 2.3D (Lower Peters Canyon) shall allow screened mechanical units and chimneys that do not exceed ten percent of the roof area to extend up to 48 feet.

9 The following elements shall not be included as open space: streets, common driveways,



slopes greater than 4:1 incline, and any property not reserved for the sole use and enjoyment of the occupants of the project and their guests.

10 Exceptions to these building setback requirements (except 2.4F: Lower Peters Canyon) appear on the setback exceptions matrix in section 3-27-2.

11 Measured from back of curb. See exhibits 3a and 3b in chapter 9-4.

(Code 1976, § V.E-325.2.4; Ord. No. 92-3, 4-14-92; Ord. No. 92-21, § 6, 11-24-92; Ord. No. 93-7, 6-22-93; Ord. No. 93-14, § 3, 10-12-93; Ord. No. 94-2, § 3, 2-8-94; Ord. No. 94-7, § 3, 6-14-94; Ord. No. 94-15, § 3, 12-13-94; Ord. No. 94-16, 12-13-94; Ord. No. 95-3, § 3B, 4-25-95; Ord. No. 95-4, § 1, 5-9-95; Ord. No. 95-7, § 4, 7-11-95; Ord. No. 95-8, § 3, 7-11-95; Ord. No. 95-12, § 3, 9-12-95; Ord. No. 95-16, § 2, 10-10-95; Ord. No. 96-2, § 2, 1-23-96; Ord. No. 96-18, § 4, 12-10-96; Ord. No. 97-06, § 3, 5-13-97; Ord. No. 97-09, § 3, 5-27-97; Ord. No. 04-11, § 3, 9-14-04; Ord. No. 05-13, § 4, 7-12-05; Ord. No. 05-16, § 2, 7-12-05; Ord. No. 06-05, § 6, 6-27-06)

### **Sec. 3-37-16. 2.5 High Density Residential.**

A. *Intent.* This category allows development at zero to 50.0 dwelling units per net acre. This corresponds to the general plan High Density category of zero to 40 units per gross acre. Attached, detached residential and compatible uses are allowed.

(2.5A) Oak Tree (Planning Area 12)

B. *Intensity standard.*

0--50.0 dwelling units per net acre

C. *Permitted uses. 1*

1. Accessory use.
2. Agriculture (interim use).
3. Home care.
4. Home occupation permit.
5. Information center.
6. Large family child care permit.
7. Manufactured structure permit (up to two years).
8. Model home sales complex.
9. Park.
10. Public park facility (only in public parks).
11. Residential shelter.
12. Residential, attached.
13. Residential, single-family detached.
14. School, public.
15. Wireless Communication Facility (may require a wireless communication facility permit, a minor conditional use permit, a major conditional use permit or may be prohibited, depending on the type of installation and the location of the installation site, pursuant to the review procedures matrix in Section 2-37.5-3.

D. *Conditional uses. 2*

1. Boarding house.
2. Child care center.
3. Church.
4. Community facility.
5. Congregate care facility.
6. Convalescent home.
7. Manufactured structure (over two years).
8. Recreational vehicle storage, private.
9. Residential care facility.
10. Residential, second units.
11. School, private.
12. Senior housing.
13. Utility building and facility.

TABLE INSET:

E.	<i>Minimum site size</i>	0.5 acre (all uses except single-family detached) 2,400 square feet (single-family detached only)
F.	<i>Maximum site coverage:</i>	
	All uses except single-family detached	Unlimited
	Single-family detached	50%
G.	<i>Maximum building height:</i>	
	All uses except single-family detached	50 feet
	Single-family detached	35 feet
H.	<i>Minimum site landscaping:</i>	
	All uses except single-family detached	30%
	Single-family detached	Not applicable
I.	<i>Building setbacks 5' from:</i>	
	Freeways, transportation corridors	50 feet
	Major highways	50 feet
	Primary highways	42 feet
	Secondary highways:	

		In nonresidential areas	35 feet
		In residential areas	25 feet
		Commuter highways and local streets	15 feet
		Private drives	10 feet
		Interior boundary if adjacent to residential uses:	
		Side, all uses except single-family detached	10 feet plus 2 feet for every 5 feet in height over 30 feet
		Side, single-family detached	5 feet
		Rear	10 feet plus 2 feet for every 5 feet in height over 30 feet
		Interior boundary if adjacent to nonresidential uses:	
		Side	10 feet
		Rear	10 feet
		Building to building:	
		All uses except single-family detached	10 feet
		Single-family detached	6 feet

1 Some permitted uses may have to conform to or fulfill conditions of approval imposed in conjunction with previous discretionary approvals. Additionally, a master plan application may need to be processed (see chapter 2-17).

2 A master plan application may be required in addition to a conditional use permit (see chapter 2-17).

3 A church that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit (CUP).

4 A private school for adults (18 years and older) that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit.

5 Exceptions to these building setback requirements appear on the setback exceptions matrix in section 3-27-2.

(Code 1976, § V.E-325.2.5; Ord. No. 92-3, 4-14-92; Ord. No. 92-21, § 6, 11-24-92; Ord. No. 93-7, 6-22-93; Ord. No. 93-14, § 3, 10-12-93; Ord. No. 94-2, § 3, 2-8-94; Ord. No. 94-7, § 3, 6-14-94; Ord. No. 94-15, § 3, 12-13-94; Ord. No. 94-16, 12-13-94; Ord. No. 95-3, § 3B, 4-25-95; Ord. No. 95-4, § 1, 5-9-95; Ord. No. 95-7, § 4, 7-11-95; Ord. No. 95-8, § 3, 7-11-95; Ord. No. 95-12, § 3, 9-12-95; Ord. No. 95-16, § 2, 10-10-95; Ord. No. 96-2, § 2, 1-23-96; Ord. No. 96-18, § 4, 12-10-96; Ord. No. 97-09, § 3, 5-27-97; Ord. No. 05-13, § 4, 7-12-05; Ord. No. 05-16, § 2, 7-12-05)

**Sec. 3-37-17. 3.1 Multi-Use.**

A. *Intent.* This category corresponds to the Multi-Use land use category as defined in the general plan. This category allows for a combination of commercial, office, residential and institutional uses within the same project site. Information on minimum requirements for commercial floor area, office floor area, and residential dwelling units shall be provided with the concept plan, zone change or master plan to ensure a mix of uses is provided.

TABLE INSET:

(3.1)	Woodbridge (Planning Area 15)
(3.1A)	University Town Center (Planning Area 24)
(3.1B)	Westpark (Planning Area 14)
(3.1C)	Lower Peters Canyon 1
(3.1D)	Oak Creek (Planning Area 12)
(3.1E)	Planning Area 9

B. *Intensity standard.*

0--50.0 dwelling units per net acre

3.1B: 0--50.0 dwelling units per net acre (Westpark)

3.1C: 12,250 ADT and 6.5--12.5 dwelling units per net acre (Lower Peters Canyon)2

C. *Permitted uses.* 3

1. Accessory use.
2. Agriculture (interim use).
3. Commercial recreation (under 1,500 square feet).
4. Department store.
5. Financial institution (except drive-thru).
6. Home care.
7. Home occupation permit.
8. Industry, service (3.1E only).
9. Information center.
10. Large family child care permit.
11. Manufactured structure permit (up to two years).
12. Model home sales complex.
13. Office, administrative, business professional.
14. Office, design professional (3.1E only).
15. Office, headquarters (3.1E only).
16. Office, medical.
17. Outdoor vendor.
18. Park.

19. Public park facility (only in public parks).
20. Pushcart.
21. Residential shelter.
22. Restaurant.
23. Restaurant, fast food (except drive-thru).
24. Retail and/or service business, general (except drive-thru).
25. Retail business, home improvement related.
26. Reverse vending machine.
27. School, commercial.
28. School, public.
29. Supermarket.
30. Veterinary service domestic.
31. Warehouse and sales outlet (3.1E only).
32. Wireless Communication Facility (may require a wireless communication facility permit, a minor conditional use permit, a major conditional use permit or may be prohibited, depending on the type of installation and the location of the installation site, pursuant to the review procedures matrix in Section 2-37.5-3).

**D. Conditional uses. 4**

1. Ambulance service.
2. Arcade, game.
3. Bar, tavern, cocktail lounge.
4. Carwash.
5. Child care center.
6. Church.
7. Commercial recreation (under 1,500 square feet).
8. Community facility.
9. Congregate care facility.
10. Convalescent home.
11. Convenience or liquor store.
12. Drive-thru.
13. Equipment rental (3.1E only).
14. Financial institution, drive-thru.
15. Fraternal and service club.
16. Funeral home/mortuary.
17. Gas station/fuel dispenser.
18. Government facility.

19. Health club.
20. Manufactured structure (over two years).
21. Massage establishment (only in conjunction with a health club and/or motel/hotel).
22. Outdoor sales.
23. Outdoor storage.
24. Recreational vehicle storage, private.
25. Recreational vehicle storage, public.
26. Residential, attached (3.1A: Prohibited, University Town Center).
27. Residential care facility.
28. Residential, second unit (3.1A: Prohibited, University Town Center; 3.1B: 0-50.0 dwelling units per acre (Westpark).
29. Residential, single-family detached.
30. Restaurant, "Type 47" ABC License operating after 12:00 a.m.
31. Restaurant, fast food (drive-thru).
32. School, private.<sup>6</sup>
33. Senior housing.
34. Small collection facility.
35. Utility building and facility.
36. Vehicle repair.

TABLE INSET:

E.	<i>Minimum site size</i>	0.25 acre (all uses except single-family detached) 2,400 square feet (single-family detached only) 3.1C: Not applicable (Lower Peters Canyon)
F.	<i>Maximum site coverage</i>	65% 3.1A: 50% (University Town Center)
G.	<i>Maximum building height</i>	70 feet 3.1B: Architectural features may be permitted to exceed maximum building heights (Westpark) 3.1C: 45 feet (Lower Peters Canyon) 3.1D: 35 feet (Oak Park)
H.	<i>Minimum site landscaping</i>	15% 3.1C: Not applicable (Lower Peters Canyon)
I.	<i>Building setbacks 7 from:</i>	
	Freeways, transportation corridors	30 feet
	Major highways:	45 feet
	In nonresidential areas	3.1C: 25 feet 8 (Lower Peters Canyon)
	In residential areas	3.1C: 40 feet 9 (Lower Peters Canyon)

	Primary highways	45 feet 42 feet (3.1D residential only, otherwise 45 feet)
	Secondary highways:	
	In nonresidential areas	45 feet
	In residential areas	35 feet
	Commuter highways and local streets:	25 feet
	Adjacent to nonresidential areas	3.1C: 15 feet 10 (Lower Peters Canyon)
	Adjacent to residential or open space	3.1C: 40 feet or a distance equal to the height of the building, whichever is greater (Lower Peters Canyon)
	North/south San Diego Creek ROW	3.1B: 50-foot minimum parking setback with 65-foot average setback; 65-foot building setback with 75-foot average setback (Westpark)
	East/west San Diego Creek ROW	3.1B: 30 feet (Westpark)
	Interior boundary if adjacent to residential uses:	
	Side	To be determined at time of master plan or conditional use permit review
	Rear	To be determined at time of master plan or conditional use permit review.
	Interior boundary if adjacent to nonresidential uses:	
	Side	To be determined at time of master plan or conditional use permit review
	Rear	To be determined at time of master plan or conditional use permit review
	Building to building	10 feet 6 feet (3.1D residential only, otherwise 10 feet)

1 Permitted and conditional uses within Planning Area 4 (Lower Peters Canyon) are outlined in section 9-4-4, as provided by the Lower Peters Canyon development agreement.

2 All uses in 3.1C (Lower Peters Canyon) shall not generate more than 12,250 ADT unless additional environmental documentation ensures traffic mitigation.

3 Some permitted uses may have to conform to or fulfill conditions of approval imposed in conjunction with previous discretionary approvals. Additionally, a master plan application may need to be processed (see chapter 2-17).

4 A master plan application may be required in addition to a conditional use permit (see chapter 2-17).

5 A church that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use permit (CUP).

6 A private school for adults (18 years and older) that proposes to locate in an existing permanent building and meets all the general development standards will not require a conditional use

permit.

7 Exceptions to these building setback requirements (except 3.1C: Lower Peters Canyon) appear on the setback exceptions matrix in 3-27-2.

8 Unsupported roofs, sunscreens, or architectural elements serving energy or aesthetic needs may project six feet into the required setback area.

9 Structures of less than 20 feet in height may encroach into the required setback area no more than 20 feet and may cover no more than 50 percent of the required setback area.

10 Unsupported roofs or sunscreens may project six feet into the required setback area.

11 A conditional use permit for a mini-warehouse use in the 3.1D (Woodbridge Parcel A) Multi-Use district shall require review and approval by the Planning Commission.

(Code 1976, § V.E-325.3.1; Ord. No. 92-3, 4-14-92; Ord. No. 92-21, § 6, 11-24-92; Ord. No. 93-7, 6-22-93; Ord. No. 93-14, § 3, 10-12-93; Ord. No. 94-2, § 3, 2-8-94; Ord. No. 94-7, § 3, 6-14-94; Ord. No. 94-15, § 3, 12-13-94; Ord. No. 94-16, 12-13-94; Ord. No. 95-3, § 3B, 4-25-95; Ord. No. 95-4, § 1, 5-9-95; Ord. No. 95-7, § 4, 7-11-95; Ord. No. 95-8, § 3, 7-11-95; Ord. No. 95-12, § 3, 9-12-95; Ord. No. 95-16, § 2, 10-10-95; Ord. No. 96-2, § 2, 1-23-96; Ord. No. 96-18, § 4, 12-10-96; Ord. No. 97-06, § 3, 5-13-97; Ord. No. 01-04, § 5, 4-10-01; Ord. No. 01-15, § 4, 9-25-01; Ord. No. 02-09, §§ 1-7, 6-11-02; Ord. No. 05-13, § 4, 7-12-05; Ord. No. 05-16, § 2, 7-12-05)



**Sec. 3-37-39. 8.1 Lifelong Learning District.**

A. *Intent.* A unique urban setting that is intended as a zoning designation in which a wide variety of uses are allowed on the same site consistent with the Great Park Land use category as defined in the General Plan. The lifelong learning district allows for a mix of residential, commercial, and educational uses that promotes and supports a synergistic live/learn/work/play environment. Specific uses that serve to enhance the cultural, educational, and recreational environment are especially encouraged in this area.

(8.1) Orange County Great Park (Planning Area 51)

(8.1A) Orange County Great Park (Planning Area 51)

B. *Intensity standard.*

1. 10.0 to 50.0 dwelling units per net acre.
2. Total maximum development intensity shall not exceed the building intensities described in Section 9-51-6(C) and shall not cause the total maximum Average Daily Trips (ADT) in PA 51 to exceed 117,047 ADT, based on the socio-economic-based trip generation average daily trips (ADT) rates used to analyze the Orange County Great Park traffic impacts.

C. *Permitted uses.*

1. Accessory use (including clubhouses and recreational amenities for the residential community).
2. Agriculture (interim use).
3. Caretaker's quarters.
4. Commercial recreation (under 1,500 square feet).
5. Department store.
6. Financial institution (except drive-thru).
7. Home care.
8. Home occupation permit.
9. Information center.
10. Manufactured structure (up to two years).
11. Model home complex.
12. Office, administrative, business professional.
13. Office, design professional.
14. Office, headquarters.
15. Office, medical.
16. Outdoor vendor.
17. Park.
18. Public park facility (only in public parks).
19. Pushcart.
20. Residential, second unit.

21. Research and development.
22. Restaurant.
23. Restaurant, fast food (except drive-thru).
24. Retail and/or service business, general (except drive-thru).
25. Reverse vending machine.
26. School, public.
27. Stable, private (only within agriculture area).
28. Supermarket.
29. Wireless communication. (May require a wireless communication facility permit, a minor conditional use, a major conditional use, or may be prohibited, depending on the type of installation and the location of the installation site, pursuant to the review procedures matrix in Section 2-37.5-3).

*D. Conditional uses.*

1. Ambulance service.
2. Arcade, game.
3. Bar, tavern, cocktail lounge.
4. Boarding house.
5. Car wash.
6. Cemetery/mausoleum/crematory (only in 8.1A).
7. Child care center.
8. Church.
9. Commercial recreation (over 1,500 square feet).
10. Community facility.
11. Composting facility. (In conjunction with demolition, removal and recovery of existing buildings, structures and landscaping associated with the former military use of the property).
12. Concrete recycling facility. (In conjunction with demolition, removal and recovery of existing buildings, structures and landscaping associated with the former military use of the property).
13. Conference/convention facility.
14. Congregate care facility.
15. Convalescent home.
16. Convenience or liquor store.
17. Drive-thru.
18. Financial institutions (drive-thru).
19. Equipment rental.
20. Fraternal and service club.
21. Funeral home/mortuary.

22. Gas station/fuel dispenser.
23. Government facility.
24. Health club.
25. Heliport.
26. Hospital.
27. Hotel, extended stay.
28. Hotel/motel.
29. Industry, service.
30. Manufactured structure (over two (2) years).
31. Massage establishment and related business.
32. Materials recovery facility. (In conjunction with demolition, removal and recovery of existing buildings, structures and landscaping associated with the former military use of the property).
33. Outdoor sales.
34. Outdoor storage.
35. Recreational vehicle storage, private.
36. Residential care facility.
37. Residential, attached.
38. Residential, single family detached.
39. Residential shelter.
40. Restaurant, "type 47" ABC license.
41. Restaurant, fast food (drive-thru).
42. Retail business, home improvement related.
43. School, commercial.
44. School, private.
45. Senior housing.
46. Small collection facility.
47. Sober living facilities.
48. Stable, public (only within agriculture area).
49. Utility building and facility.
50. Vehicle leasing and rental.
51. Vehicle repair.
52. Veterinary service, domestic.
53. Warehouse and sales outlet.

E. Introduction of unique land uses that are not specified in the permitted and conditionally permitted uses but fit within the intent of the GP-LLD (Section 3-37-38) shall be encouraged subject to an initial determination by the Director of Community Development and subsequently

subject to a conditional use permit for consideration by the Planning Commission.

TABLE INSET:

F.	<i>Minimum site size</i>		0.25 acre (all uses except single-family detached).
			2,400 square feet (single-family detached only)
G.	<i>Maximum site coverage</i>		50% single-use developments
			65% mixed-use developments
H.	<i>Maximum building height</i>		70 feet
I.	<i>Minimum site landscaping</i>		15%
J.	<i>Building setbacks from:</i>		
		Major highways:	45 feet
		Primary highways:	45 feet
		Secondary highways:	
		In nonresidential areas	35 feet
		In residential areas	45 feet
		Commuter highways and local streets:	
		Adjacent to nonresidential areas	15 feet
		Adjacent to residential areas	To be determined at time of master plan review
		Bee Canyon drainage corridor	
		Rear yard	To be determined at time of master plan review
		Side yard	To be determined at time of master plan review
		Great Park edge	To be determined at time of master plan review
		Interior boundary adjacent to residential or nonresidential uses:	
		Side	To be determined at time of master plan or conditional use permit review
		Rear	To be determined at time of master plan or conditional use permit review
		Building to building	10 feet

(Ord. No. 06-18, § 4, 10-24-06)

**Sec. 2-9-7. Findings.**

In order for the Zoning Administrator or Planning Commission to approve a conditional use permit, the Zoning Administrator or Planning Commission shall find that:

- A. The proposed location of the conditional use is in accord with the objectives of chapter 1-1 of the zoning ordinance and the purpose of the zoning district in which the site is located.
- B. The proposed conditional use will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.
- C. The proposed conditional use is compatible with existing uses and future uses to the extent those uses are known, and will comply with each of the applicable provisions of the zoning ordinance, except for approved variances and/or administrative relief per chapters 2-2 and 2-37.
- D. If the proposed conditional use permit affects land located within the coastal zone, the proposed conditional use will comply with the provisions of the land use plan of the certified local coastal program.
- E. Based upon information available at the time of approval, adequate utilities, access roads, drainage, and other necessary facilities exist or will be provided to serve the proposed use.

(Code 1976, § V.E-205.6; Ord. No. 92-3, 4-14-92; Ord. No. 92-20, § 6, 11-10-92; Ord. No. 93-14, § 3, 10-12-93; Ord. No. 94-7, § 3, 6-14-94; Ord. No. 95-4, § 1, 5-9-95)

## Land Use Research

Tucson, AZ

**CITY OF TUCSON**  
**SUMMARY OF ZONING CLASSIFICATIONS AND DEVELOPMENT DESIGNATORS**

The *Land Use Code (LUC)* applies development criteria on individual uses within each zone, and the criteria do not necessarily apply to all uses permitted in the zone. The development criteria listed in the table below are provided for only the most common use allowed in each zone. The *LUC* should be consulted to verify the applicable Development Designator for a specific use.

Zone (Code Section)	Development Designator <sup>1</sup>	Minimum Lot or Site Area (Sq. Ft.) <sup>1</sup>	Units Per Lot <sup>2</sup>	Density Per Acre <sup>2</sup>	Maximum Lot Coverage (Percent) <sup>3</sup>	Floor Area Ratio <sup>4</sup>	Maximum Building Height (Ft.) <sup>5</sup>	Perimeter Yard (Same Zone) <sup>5</sup>
OS (2.9.1)	4	4,000			10	0.03	12	25'
IR (2.2.1)	21	1,568,160	1				30	25'
RH (2.2.2)	25	180,000	1				30	25'
SR (2.2.4)	C	144,000	1				30	25'
SH (2.2.6)	E	36,000	2				30	20'
RX-1 (2.3.2)	D	36,000	1				30	20'
RX-2 (2.3.3)	F	16,000	1				25	20'
R-1 (2.3.4)	G	7,000	1		70		25	6' or 2/3(H)
R-1 (2.3.4)	H	10,000	2		70		25	6' or 2/3(H)
R-2 (2.3.5)	I	5,000	1		70		25	6' or 2/3(H)
R-2 (2.3.5)	K	5,000		15	75		25	10' or 3/4(H)
R-3 (2.3.6)	P			36	70		40	10' or 3/4(H)
MH-1 (2.3.7)	G	7,000	1				25	6' or 2/3(H)
MH-1 (2.3.7)	M	7,000		8	70		16	10' or 3/4(H)
MH-2 (2.3.8)	I	5,000	1		70		25	6' or 2/3(H)
MH-2 (2.3.8)	K	5,000		15	75		25	10' or 3/4(H)
O-1 (2.4.1)	26	10,000				0.25	16	10' or 3/4(H)
O-2 (2.4.2)	27					0.50	26	(H)
O-3 (2.4.3)	30					0.75	40	0
RVC (2.5.1)	29					0.50	30	0
NC (2.5.2)	26	10,000				0.25	16	(H)
C-1 (2.5.3)	28					0.35	30	0
C-2 (2.5.4)	30					0.75	40	0
C-2 (2.5.4)	31					0.90	40	0
C-3 (2.5.5)	33					1.50	50	0
C-3 (2.5.5)	34					2.00	75	0
P (2.5.6)	40	5,000				0.90	16	(H)
RV (2.5.7)	M	7,000		8	70		16	(H)
OCR-1 (2.6.1)	35					6.00	140	0
OCR-2 (2.6.2)	36					10.50	300	0
MU (2.6.4)	G	7,000	1		70		25	6' or 2/3(H)
MU (2.6.4)	K	5,000		15	75		25	10' or 3/4(H)
MU (2.6.4)	29					0.50	30	1 1/2(H)
P-1 (2.7.1)	33					1.50	50	0
I-1 (2.7.2)	34					2.00	75	0
I-2 (2.7.3)	35					6.00	140	0

<sup>1</sup>Section 3.2.3

<sup>2</sup>Section 3.2.10

<sup>3</sup>Section 3.2.9

<sup>4</sup>Section 3.2.11

<sup>5</sup>Section 3.2.7

<sup>6</sup>Refer to the specific use and zone, then Section 3.2.6 to determine the Perimeter Yard applicable. The Perimeter Yards shown on the table are the interior yard setback requirements which are based on the adjacent property having the same zoning as the property in question. Perimeter yards are based on the height of the proposed building and the zoning of adjacent property. **If the zoning is not the same, the perimeter yard shown on the table may not be applicable.** Street Perimeter Yards, which are setbacks from the streets, are not shown on the table but are applied as two types, established area and developing area. See definition of established area setback in Sec. 6.2.5. Established area--greater of 20' or 1 1/2 (H) for front yard and 10' for street side yard. Developing area (includes all streets on MS&R)--Section 3.2.6.5.

**Mailing Address:** Development Services Department  
Zoning Administration  
P. O. Box 27210  
Tucson, Arizona 85726-7210

**Location:** Public Works Building  
201 North Stone  
Second Floor  
**Phone:** 520-791-5550  
**FAX:** 520-791-4475



## ZONING DISTRICT NARRATIVE SUMMARIES

(For a complete description refer to *Land Use Code*, Chapter 23, *Tucson Code*)

<b>OS</b>	<b>OPEN SPACE</b> – Used for protection of permanent open space.
<b>IR*</b>	<b>INSTITUTIONAL RESERVE</b> – Federal, State, City, County, and other properties under public ownership which are natural reserves or wildlife refuge reserves.
<b>RH*</b>	<b>RURAL HOMESTEAD</b> – Primarily low density residential property, with limited commercial and industrial uses to service residential development.
<b>SR, RX-1, RX-2, SH*</b>	<b>LOW DENSITY RESIDENTIAL</b> – Primarily low density residential property, with recreational/tourist related enterprises permitted subject to lot size.
<b>R-1</b>	<b>SUBURBAN HOMESITE</b> – Primarily low density (2 units per lot) residential property, with uses as permitted in the SR zone.
<b>R-2</b>	<b>RESIDENTIAL - SINGLE-FAMILY</b> – Primarily for the use of single-family residences. Schools, churches, and public buildings permitted.
<b>R-3</b>	<b>MEDIUM DENSITY RESIDENTIAL</b> – Multifamily and single-family residences permitted.
<b>MH-1</b>	<b>HIGH DENSITY RESIDENTIAL</b> – Primarily for apartment houses; single-family development permitted.
<b>MH-2</b>	<b>MOBILE HOME</b> – Mobile homes permitted, along with site-built structures. Medium density mobile home parks permitted.
<b>O-1, O-2</b>	<b>MOBILE HOME PARK</b> – Mobile home parks or mobile home subdivisions, along with social, commercial, and recreation facilities permitted as secondary uses.
<b>O-3</b>	<b>LOW INTENSITY OFFICE</b> – Allows for conversion of residential to office use, primarily for properties located on arterial and/or collector streets.
<b>RVC*</b>	<b>OFFICE</b> – Professional and semiprofessional office, high density residential developments, and limited research and development uses permitted.
<b>NC</b>	<b>RURAL VILLAGE CENTER</b> – Retail shopping facilities, planned and designed for the convenience and necessity of a suburban or rural neighborhood.
<b>C-1</b>	<b>NEIGHBORHOOD COMMERCIAL</b> – Low-intensity, small-scale commercial and office uses that are compatible in size and design with adjacent residential uses.
<b>C-2, C-3</b>	<b>LOCAL COMMERCIAL</b> – A restrictive commercial zone, limited to retail sales with no outside display/storage. Office and residential development permitted. Restaurants permitted.
<b>P</b>	<b>GENERAL AND INTENSIVE COMMERCIAL</b> – Retail commercial with wholesale; nightclubs, bars, amusement enterprises permitted. Full range of automotive activities; sales, repair, leasing, etc. Limited manufacturing permitted. Residential uses permitted.
<b>RV</b>	<b>PARKING</b> – Off-street parking at or below grade.
<b>OCR-1, OCR-2</b>	<b>RECREATIONAL VEHICLE PARK</b> – Travel trailer park only permitted use. Residences and social and recreational secondary uses allowed.
<b>PAD</b>	<b>OFFICE/COMMERCIAL/RESIDENTIAL</b> – High-rise mixed office, commercial, and residential uses located in major activity centers.
<b>MU*</b>	<b>PLANNED AREA DEVELOPMENT (PAD) ZONE</b> – A zoning classification which provides for the establishment of zoning districts with distinct regulations as adopted by Mayor and Council.
<b>P-I</b>	<b>MULTIPLE USE</b> – A mixed use zone permitting low to medium density residential development and various commercial activities commonly from the O-3 to C-2 zones.
<b>I-1, I-2</b>	<b>PARK INDUSTRIAL</b> – The most restrictive of industrial zones. Administrative, manufacturing, and wholesale activities carried on entirely within an enclosed structure. Limited retail sales permitted when incidental to an industrial use.
	<b>LIGHT AND HEAVY INDUSTRIAL</b> – Commercial, industrial, and manufacturing uses; residential restricted to caretakers residence, except for Resident Artisans in the Downtown Warehouse District.

The following table lists the overlay zones, as provided in the *LUC*, which may have requirements which supersede requirements of the zone.

OVERLAY ZONES		
HDZ	Hillside Development Zone	2.8.1
SCZ	Scenic Corridor Zone	2.8.2
MS&R	Major Streets and Routes Setback Zone	2.8.3
	Gateway Corridor Zone	2.8.4
AEZ	Airport Environs Zone	2.8.5
ERZ	Environmental Resource Zone	2.8.6
	Reserved	2.8.7
HPZ	Historic Preservation Zone	2.8.8
DSO	Drachman School Overlay Zone	2.8.9
RND	Rio Nuevo and Downtown (RND) Zone	2.8.10
See also Chapter 25 (Floodplain) and Chapter 29 (WASH) of the <i>Tucson Code</i> .		

### GENERAL NOTES

\*Zoning for newly annexed areas only.

For a complete description of all zones, refer to the *Land Use Code*, Chapter 23 of the *Tucson Code*.

Home Occupations are permitted as secondary uses to all residential uses.

For specific off-street parking requirements by land use, refer to Section 3.3.4.

Screening and landscaping requirements are found in Section 3.7 and *Development Standards* 2-06 and 2-07.

For additional information on rezoning requirements, call (520) 791-4541.

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## Land Use Code

### Article 2. ZONES

#### DIVISION 5. COMMERCIAL ZONES

[Printable PDF](#)

#### SECTIONS:

- [2.5.1 "RVC" RURAL VILLAGE CENTER ZONE](#)
- [2.5.2 "NC" NEIGHBORHOOD COMMERCIAL ZONE](#)
- [2.5.3 "C-1" COMMERCIAL ZONE](#)
- [2.5.4 "C-2" COMMERCIAL ZONE](#)
- [2.5.5 "C-3" COMMERCIAL ZONE](#)
- [2.5.6 "P" PARKING ZONE](#)
- [2.5.7 "RV" RECREATIONAL VEHICLE ZONE](#)

#### 2.5.1 "RVC" RURAL VILLAGE CENTER ZONE.

2.5.1.1 Purpose. The purpose of this zone is to provide retail shopping facilities, planned and designed for the convenience and necessity of a suburban or rural neighborhood. Rural village centers shall be developed according to an approved development plan and located in accordance with adopted neighborhood, community, or area plans. The regulations are designed to maintain the suburban character of duly designated commercial areas located along Scenic Routes, as designated, and to provide safe ingress and egress to and from the village center. This zone is solely to provide for comparable zoning areas annexed into the City limits and is not intended for rezoning.

2.5.1.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotes following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

#### A. Commercial Services Use Group, Sec. 6.3.5

1. Administrative and Professional Office "29"
2. Communications "29", subject to: Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8 §1, 3/3/97)
3. Day Care "29"
4. Financial Service "29", subject to: Sec. 3.5.4.5.C (Ord. No. 10252, §1, 2/28/06)
5. Food Service "29", subject to: Sec. 3.5.4.6.B and .C and Sec. 3.5.4.7.C
6. Medical Service - Outpatient "29", subject to: Sec. 3.5.4.8.B
7. Personal Service "29", subject to: Sec. 3.5.4.13, .B, and .C

#### B. Retail Trade Use Group, Sec. 6.3.10

1. Food and Beverage Sales "29"

(2,000) square feet of GFA. Outdoor activity areas allowed in this zone are included in the GFA limitations.

Exception: On authorization of rezoning of property to the NC zone, Mayor and Council may approve land use that will be located in existing structures or portions thereof, which exceed the limitation of two thousand (2,000) square feet of gross floor area per use or the limitations restricting mixed use or multi-tenant development to ten thousand (10,000) square feet of gross floor area. The gross floor area for any such exception shall neither be increased nor enlarged following initial authorization, and the right to exceed the gross floor area restrictions shall be terminated if discontinued or abandoned. (Ord. No. 8704, §1, 5/13/96)

### 2.5.3 "C-1" COMMERCIAL ZONE.

2.5.3.1 Purpose. This zone provides for low-intensity, commercial and other uses that are compatible with adjacent residential uses. Residential and other related uses are permitted.

2.5.3.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotes marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

#### A. Commercial Services Use Group, Sec. 6.3.5

All Commercial Services Uses may provide one (1) drive-through service lane unless otherwise provided.

1. Administrative and Professional Office "29"
2. Animal Service "28", subject to: Sec. 3.5.4.1.A, .B, .C, and .D
3. Communications "28", subject to: Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8 §1, 3/3/97)
4. Day Care "29"
5. Entertainment "28", subject to: Sec. 3.5.4.19.C
6. Financial Service "28", subject to: Sec. 3.5.4.5.A and C (Ord. No. 10252, §1, 2/28/98)
7. Food Service "28", subject to: Sec. 3.5.4.6.A and .C
8. Medical Service - Extended Health Care "29", subject to: Sec. 3.5.13.5 (Ord. No. 9 §1, 10/5/98)
9. Medical Service - Major "29" (Ord. No. 9138, §1, 10/5/98)
10. Medical Service - Outpatient "29", subject to: Sec. 3.5.4.8.B (Ord. No. 9138, §1, 10/5/98)
11. Parking "29"
12. Personal Service "28", subject to: Sec. 3.5.4.13.A
13. Research and Product Development "16"
14. Technical Service "28", subject to: Sec. 3.5.4.16.A
15. Trade Service and Repair, Minor, "28", subject to: Sec. 3.5.4.27 (Ord. No. 8653, §1, 2/26/96)

16. Travelers' Accommodation, Lodging, "29"

(Ord. No. 8653, §1, 2/26/96; Ord. No. 9138, §1, 10/5/98)

B. Retail Trade Use Group, Sec. 6.3.10

All Retail Trade Uses may provide one (1) drive-through service lane unless otherwise provided.

1. Food and Beverage Sales "28"

2. General Merchandise Sales "28", subject to: Sec. 3.5.9.2.C

C. Civic Use Group, Sec. 6.3.4

1. Cemetery "3", subject to: Sec. 3.5.3.1.A and Sec. 3.5.13.5

2. Civic Assembly "28"

3. Cultural Use "28", subject to: Sec. 3.5.3.2

4. Educational Use: Elementary and Secondary Schools "28", subject to: Sec. 3.5.3.7  
Sec. 3.5.13.5 (Ord. No. 9075, §1, 6/15/98)

5. Educational Use: Instructional School "28"

6. Educational Use: Postsecondary Institution "28", subject to: Sec. 3.5.3.3

7. Membership Organization "28"

8. Postal Service "28", subject to: Sec. 3.5.3.2

9. Protective Service "28", subject to: Sec. 3.5.3.2

10. Religious Use "28"

D. Recreation Use Group, Sec. 6.3.7

1. Golf Course "1", subject to: Sec. 3.5.6.3 and Sec. 3.5.13.5

2. Neighborhood Recreation "28", subject to: Sec. 3.5.13.5

3. Recreation "28"

E. Residential Use Group, Sec. 6.3.8

1. Family Dwelling "O"

2. Family Dwelling "RCP-9", subject to: Sec. 3.6.1

3. Group Dwelling "17"

4. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "29", subject to: Sec. 3.5.7.8.C.4, .D, and .H (no minimum lot size)

5. Residential Care Services: Rehabilitation Service - children's facilities "K", subject to: Sec.

3.5.7.8.A, .C.1, and .D

6. Residential Care Services: Shelter Care - victims of domestic violence "K", subject to Sec. 3.5.7.8.A, .C.3, and .D

7. Residential Care Services: Rehabilitation Service or Shelter Care "29", subject to: 3.5.7.8.A, .C.4, .D, .F, and .H (no minimum lot size)

F. Storage Use Group, Sec. 6.3.11

1. Personal Storage "38", subject to: Sec. 3.5.10.3

2.5.3.3 Special Exception Land Uses. The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

A. Commercial Services Use Group, Sec. 6.3.5

1. Reserved. (Ord. No. 8666, §1, 3/25/96; Ord. No. 9967, §2, 7/1/04; Ord. No. 10387, 4/10/07)

2. Alcoholic Beverage Service "28", as a Secondary Land Use to Travelers' Accommodation, Lodging, subject to: Sec. 3.5.4.17.B, .D, .G, .H, .I, and .K; Sec. 3.5.4.19.C; and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 8666, §1, 3/25/96; Ord. No. 9967, §2, 7/1/04)

3. Automotive - Minor Service and Repair "28", subject to: Sec. 3.5.4.2.B, .C, .D, and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

4. Communications "8", limited to wireless communication towers and antennae, subject to: Sec. 3.5.4.20.B, .C, and .E.2, or Sec. 3.5.4.20.B, .C, and .F.1, or Sec. 3.5.4.20.B, .C, and .G (Ord. No. 8813, §1, 3/3/97)

5. Medical Service - Outpatient, limited to blood donor center, "28", subject to: Sec. 3.5.4.8.C and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1, Sec. 5.4.3. (Ord. No. 8582, §1, 9/25/95; Ord. No. 9967, §2, 7/1/04)

(Ord. No. 8666, §1, 3/25/96)

B. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Rehabilitation Service or Shelter Care "29", subject to: 3.5.7.8.A, .C.4, .D, and .H (no minimum lot size) and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

C. Utilities Use Group, Sec. 6.3.12

1. Distribution System "12", subject to: Sec. 3.5.11.1.A, .E, and .I and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

D. Civic Use Group, Sec. 6.3.4

1. Educational Use: Elementary and Secondary Schools "28", subject to: Sec. 3.5.13.5 and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and Sec. 23A-53. (Ord. No. 9967, §2, 7/1/04)

(Ord. No. 8653, §1, 2/26/96)

E. Hazardous Material Storage is permitted as a Secondary Land Use to a Permitted Land Use subject to: Sec. 3.5.10.2.A and .B.1.

F. The following is permitted as a Secondary Land Use to Educational Use.

1. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

G. The following are permitted as Secondary Land Uses to all uses in the Commercial Service and Retail Trade Use Groups.

1. Industrial Use Group, Sec. 6.3.6

a. Perishable Goods Manufacturing, subject to: Sec. 3.5.5.2.D, .E, and .H

b. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

H. The following is permitted as a Secondary Land Use to all uses in the Retail Trade Use Gr

1. Industrial Use Group, Sec. 6.3.6

a. Craftwork, subject to: Sec. 3.5.5.7

(Ord. No. 8653, §1, 2/26/96)

I. Alcoholic Beverage Service is permitted as a Secondary Land Use to Travelers' Accommodation, Lodging, subject to: Sec. 3.5.4.17.B, .D, .G, .H, .I, .J, and .K and Sec. 3.5.4.19.C.

(Ord. No. 8666, §1, 3/25/96)

**2.5.3.5 Accessory Land Uses.** Land uses accessory to the Permitted or Secondary Land Uses are allow subject to compliance with Sec. 3.2.5.

**2.5.3.6 General Restrictions.** The following restrictions apply to all uses and development in this zone.

A. Drive-through services are not permitted unless specifically provided for the land use.

B. All land use activities except vehicular use areas shall be conducted entirely within an encl building unless specifically provided otherwise.

## **2.5.4 "C-2" COMMERCIAL ZONE.**

**2.5.4.1 Purpose.** This zone provides for general commercial uses that serve the community and region. Residential and other related uses are also permitted.

**2.5.4.2 Permitted Land Uses.** The following Land Use Classes are principal Permitted Land Uses with

this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quote marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

A. Commercial Services Use Group, Sec. 6.3.5

1. Administrative and Professional Office "31", subject to: Sec. 3.5.13.5
2. Alcoholic Beverage Service "30", subject to: Sec. 3.5.4.19.C and Sec. 3.5.13.5
3. Animal Service "30", subject to: Sec. 3.5.4.1.A, .B, .C, and .D
4. Automotive - Service and Repair "30", subject to: Sec. 3.5.13.5
5. Billboard "32", subject to: Sec. 3.5.4.26, Sec. 3.5.13.5, and the Regulations of Chapter 3, Advertising and Outdoor Signs, of the Tucson Code (Ord. No. 8610, §1, 11/27/95)
6. Building and Grounds Maintenance "30"
7. Communications "31", subject to: Sec. 3.5.4.20.A and Sec. 3.5.13.5 or Sec. 3.5.4.2.C, and .D.1 or .D.2 (Ord. No. 8813, §1, 3/3/97)
8. Construction Service "30"
9. Day Care "31", subject to: Sec. 3.5.13.5
10. Entertainment "31", subject to: Sec. 3.5.4.4.A, .B, .C, and .D, Sec. 3.5.4.19.C, and Sec. 3.5.13.5
11. Financial Service "31", subject to: Sec. 3.5.13.5 and Sec. 3.5.4.5.C (Ord. No. 102 §1, 2/28/06)
12. Food Service "30", subject to: Sec. 3.5.4.6.C and Sec. 3.5.13.5
13. Funeral Service "30"
14. Medical Service - Extended Health Care "31", subject to: Sec. 3.5.13.5
15. Medical Service - Major "31"
16. Medical Service - Outpatient "31", subject to: Sec. 3.5.4.8.B
17. Parking "31", subject to: Sec. 3.5.13.5
18. Personal Service "30"
19. Research and Product Development "31"
20. Technical Service "31", subject to: Sec. 3.5.4.16.B
21. Trade Service and Repair, Minor, "30"
22. Transportation Service, Land Carrier, "31", subject to: Sec. 3.5.13.5
23. Travelers' Accommodation, Lodging, "31", subject to: Sec. 3.5.13.5

B. Retail Trade Use Group, Sec. 6.3.10

1. Construction Material Sales "31"
2. Food and Beverage Sales "31"
3. General Merchandise Sales "31", subject to: Sec. 3.5.9.2.A
4. Heavy Equipment Sales "30", subject to: Sec. 3.5.9.3
5. Swap Meets and Auctions "30", subject to: Sec. 3.5.9.4
6. Vehicle Rental and Sales "31", subject to: Sec. 3.5.9.5.A and .B (Ord. No. 8653, § 2/26/96)

C. Civic Use Group, Sec. 6.3.4

1. Civic Assembly "31"
2. Correctional Use: Supervision Facility "8", subject to: Sec. 3.5.3.4.B.1, .3.a, .4.b, .8, and .10
3. Cultural Use "31"
4. Educational Use: Elementary and Secondary Schools "31", subject to: Sec. 3.5.3.7 (Ord. No. 9075, §1, 6/15/98)
5. Educational Use: Postsecondary Institution "31", subject to: Sec. 3.5.3.3
6. Educational Use: Instructional School "31"
7. Membership Organization "30"
8. Postal Service "31"
9. Protective Service "31"
10. Religious Use "31"

D. Industrial Use Group, Sec. 6.3.6

1. Craftwork "30"
2. Processing and Cleaning "30"
3. Salvaging and Recycling "30", subject to: Sec. 3.5.5.6.B, .C, and .E (Ord. No. 865, §1, 2/26/96; Ord. No. 9915, §4, 11/24/03)

E. Recreation Use Group, Sec. 6.3.7

1. Golf Course "1", subject to: Sec. 3.5.6.3 and Sec. 3.5.13.5
2. Neighborhood Recreation "30"
3. Recreation "31"



F. Residential Use Group, Sec. 6.3.8

1. Family Dwelling "R"
2. Family Dwelling "RCP-7", subject to: Sec. 3.6.1
3. Group Dwelling "30"
4. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "30", subject to: Sec. 3.5.7.8.C.4, .D, and .H (no minimum lot size)
5. Residential Care Services: Rehabilitation Service - children's facilities "30", subject to: Sec. 3.5.7.8.A, .C.1, and .D
6. Residential Care Services: Shelter Care - victims of domestic violence "30", subject to: Sec. 3.5.7.8.A, .C.3, and .D
7. Residential Care Services: Rehabilitation Service or Shelter Care "31", subject to: 3.5.7.8.A, .C.4, .D, .F, and .H (no minimum lot size)

G. Restricted Adult Activities Use Group, Sec. 6.3.9, subject to: Sec. 3.5.8.1

1. Adult Commercial Services "30"
2. Adult Recreation "30"
3. Adult Retail Trade "30"

H. Storage Use Group, Sec. 6.3.11

1. Commercial Storage "31", subject to: Sec. 3.5.10.1
2. Personal Storage "31", subject to: Sec. 3.5.10.3.C and .F (Ord. No. 8653, §1, 2/26/ Ord. No. 9631, §1, 12/10/01)

I. Utilities Use Group, Sec. 6.3.12

1. Distribution System "30", subject to: Sec. 3.5.11.1.A, .E, and .I

J. Wholesaling Use Group, Sec. 6.3.13

1. Business Supply and Equipment Wholesaling "31"
2. Construction/Heavy Equipment Wholesaling "31"
3. Food and Beverage Wholesaling "31"

2.5.4.3 Special Exception Land Uses. The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9, (Ord. No. 8653, §1, 2/26/96)

A. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Rehabilitation Service or Shelter Care "31", subject to:

1. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

G. The following is permitted as a Secondary Land Use to all uses in the Commercial Service Retail Trade Use Groups.

1. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

2.5.4.5 Accessory Land Uses. Land uses accessory to the Permitted or Secondary Land Uses are allowed subject to compliance with Sec. 3.2.5.

2.5.4.6 General Restrictions. The following restrictions apply to all uses and development in this zone.

A. Outdoor display of finished products for rent or sale at retail or wholesale is permitted, unless prohibited by specific performance criteria.

B. Unless modified by specific performance criteria or Sec. 2.5.4.6.A, land uses in the Commercial Services, Industrial, Restricted Adult Activities, and Wholesaling Use Groups shall be conducted entirely within an enclosed building.

**2.5.5 "C-3" COMMERCIAL ZONE.**

2.5.5.1 Purpose. This zone provides for mid-rise development of general commercial uses that serve the community and region, located downtown or in other major activity center areas. Residential and other related uses are also permitted.

2.5.5.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

A. Commercial Services Use Group, Sec. 6.3.5

1. Administrative and Professional Office "34"

2. Alcoholic Beverage Service "33", subject to: Sec. 3.5.4.19.C

3. Animal Service "33", subject to: Sec. 3.5.4.1.A, .B, .C, and .D or Sec. 3.5.4.1.G

4. Automotive - Service and Repair "33"

5. Billboard "32", subject to: Sec. 3.5.4.26 and the Regulations of Chapter 3, Advertising and Outdoor Signs, of the Tucson Code (Ord. No. 8610, §1, 11/27/95)

6. Building and Grounds Maintenance "33"

7. Communications "34", subject to: Sec. 3.5.4.20.A or Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8813, §1, 3/3/97)

8. Construction Service "33"
9. Day Care "34"
10. Entertainment "34", subject to: Sec. 3.5.4.4.A, .B, .C, and .D and Sec. 3.5.4.19.C
11. Financial Service "34" subject to: Sec. 3.5.4.5.C (Ord. No. 10252, §1, 2/28/06)
12. Food Service "33", subject to: Sec. 3.5.4.6.C
13. Funeral Service "33"
14. Medical Service - Extended Health Care "34"
15. Medical Service - Major "34"
16. Medical Service - Outpatient "34", subject to: Sec. 3.5.4.8.B
17. Parking "34"
18. Personal Service "33"
19. Research and Product Development "34"
20. Technical Service "34", subject to: Sec. 3.5.4.16.B
21. Trade Service and Repair, Major, "33", subject to: Sec. 3.5.4.15
22. Trade Service and Repair, Minor, "33"
23. Transportation Service, Land Carrier, "34"
24. Travelers' Accommodation, Lodging, "34"

**B. Retail Trade Use Group, Sec. 6.3.10**

1. Construction Material Sales "34"
2. Food and Beverage Sales "34"
3. General Merchandise Sales "34", subject to: Sec. 3.5.9.2.A
4. Heavy Equipment Sales "33", subject to: Sec. 3.5.9.3
5. Swap Meets and Auctions "33", subject to: Sec. 3.5.9.4
6. Vehicle Rental and Sales "34", subject to: Sec. 3.5.9.5.A and .B (Ord. No. 8653, § 2/26/96)

**C. Civic Use Group, Sec. 6.3.4**

1. Civic Assembly "34"
2. Correctional Use: Supervision Facility "8", subject to: Sec. 3.5.3.4.B.1, .3.a, .4.b, .8, and .10

3. Cultural Use "34"

4. Educational Use: Elementary and Secondary Schools "34", subject to: Sec. 3.5.3.7 (Ord. No. 9075, §1, 6/15/98)

5. Educational Use: Instructional School "34"

6. Educational Use: Postsecondary Institution "34", subject to: Sec. 3.5.3.3

7. Membership Organization "33"

8. Postal Service "34"

9. Protective Service "34"

10. Religious Use "34"

D. Industrial Use Group, Sec. 6.3.6

1. Craftwork "33"

2. Processing and Cleaning "33"

3. Salvaging and Recycling "33", subject to: Sec. 3.5.5.6.B, .C, and .E (Ord. No. 865, §1, 2/26/96; Ord. No. 9915, §4, 11/24/03)

4. Salvaging and Recycling, limited to household goods donation center, "33", subject to: Sec. 3.5.5.6.B, .F, .G, .H, .I, .J, and .K; Sec. 3.5.13.3; and Sec. 3.5.13.4 (Ord. No. 9915, §4, 11/24/03)

E. Recreation Use Group, Sec. 6.3.7

1. Golf Course "1", subject to: Sec. 3.5.6.3 and Sec. 3.5.13.5

2. Neighborhood Recreation "33"

3. Recreation "34"

F. Residential Use Group, Sec. 6.3.8

1. Family Dwelling "S"

2. Group Dwelling "33"

3. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "33", subject to: Sec. 3.5.7.8.C.4 and .D

4. Residential Care Services: Rehabilitation Service - children's facilities "33", subject to: Sec. 3.5.7.8.A, .C.1, and .D

5. Residential Care Services: Shelter Care - victims of domestic violence "33", subject to: Sec. 3.5.7.8.A, .C.3, and .D

6. Residential Care Services: Rehabilitation Service or Shelter Care "33", subject to: Sec. 3.5.7.8.A, .C.4, .D, .F, and .H (no minimum lot size)

## G. Restricted Adult Activities Use Group, Sec. 6.3.9. subject to: Sec. 3.5.8.1

1. Adult Commercial Services "33"
2. Adult Recreation "33"
3. Adult Retail Trade "33"

## H. Storage Use Group, Sec. 6.3.11

1. Commercial Storage "34", subject to: Sec. 3.5.10.1
2. Personal Storage "34", subject to: Sec. 3.5.10.3.C and .F (Ord. No. 8653, §1, 2/26/95 Ord. No. 9631, §1, 12/10/01)

## I. Utilities Use Group, Sec. 6.3.12

1. Distribution System "33", subject to: Sec. 3.5.11.1.A, .E, and .I

## J. Wholesaling Use Group, Sec. 6.3.13

1. Business Supply and Equipment Wholesaling "34"
2. Construction/Heavy Equipment Wholesaling "34"
3. Food and Beverage Wholesaling "34"

**2.5.5.3 Special Exception Land Uses.** The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

## A. Reserved. (Ord. No. 9138, §1, 10/5/98)

## B. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Rehabilitation Service or Shelter Care "31", subject to: 3.5.7.8.A, .C.4, .D, and .H (no minimum lot size) and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and Sec. 23A-53. (Ord. No. 9967, §2, 7/1/04)

## C. Civic Use Group, Sec. 6.3.4

1. Correctional Use: Custodial Facility "8", subject to: Sec. 3.5.3.4.B.1, .3.a, .4.b, .5.f, .9, and .10 and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.3. (Ord. No. 9967, §2, 7/1/04)
2. Educational Use: Elementary and Secondary Schools "34", subject to: Approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and Sec. 23A-53. (Ord. No. 9075, §1, 6/15/98; Ord. No. 9967, §2, 7/1/04)

## D. Commercial Services Use Group, Sec. 6.3.5

1. Alcoholic Beverage Service - Large Bar "33", subject to: Sec. 3.5.4.19.B and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3. (Ord. No. 9967, §2, 7/1/04)

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## Land Use Code

### Article 2. ZONES

#### DIVISION 3. URBAN RESIDENTIAL ZONES

[Printable PDF](#)

##### SECTIONS:

- [2.3.1 RESERVED](#)
- [2.3.2 "RX-1" RESIDENCE ZONE](#)
- [2.3.3 "RX-2" RESIDENCE ZONE](#)
- [2.3.4 "R-1" RESIDENCE ZONE](#)
- [2.3.5 "R-2" RESIDENCE ZONE](#)
- [2.3.6 "R-3" RESIDENCE ZONE](#)
- [2.3.7 "MH-1" MOBILE HOME ZONE](#)
- [2.3.8 "MH-2" MOBILE HOME ZONE](#)

*- Rehabilitation Service under Residential Care Services*

##### 2.3.1 RESERVED.

##### 2.3.2 "RX-1" RESIDENCE ZONE.

2.3.2.1 Purpose. This zone provides for suburban, low density, single-family, residential development other compatible neighborhood uses.

2.3.2.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quote marks following the Land Use Class refers to the Development Designator provisions of [3.2.3](#).

##### A. Residential Use Group, Sec. [6.3.8](#)

1. Family Dwelling "D", subject to: Sec. [3.5.7.1.F](#) (Ord. No. 9443, §1, 11/27/00)
2. Family Dwelling "RCP-2", subject to: Sec. [3.6.1](#) and Sec. [3.5.7.1.F](#) (Ord. No. 944: 11/27/00)
3. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "D", subject to: Sec. [3.5.7.8.B.1](#), .C.1, and .D (Ord. No. 9138, §1, 10/5/98)

##### B. Agricultural Use Group, Sec. [6.3.3](#)

1. Animal Production "Q", subject to: Sec. [3.5.2.1.A.1](#), .B.1, .B.2, and .C.1
2. Crop Production "Q", subject to: Sec. [3.5.2.2](#)
3. General Farming "Q", subject to: Sec. [3.5.2.1.A.1](#), .B.1, .B.2, and .C.1 and Sec. [3.5](#)

##### C. Civic Use Group, Sec. [6.3.4](#)

1. Cultural Use "Q", subject to: Sec. [3.5.3.2](#)

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915, 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

E. The following may be permitted as Secondary Land Uses to Cultural Use.

1. Commercial Services Use Group, Sec. 6.3.5

a. Food Service, subject to: Sec. 3.5.4.6.A and .C and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3. (Ord. No. 9967, 7/1/04)

b. Alcoholic Beverage Service, subject to: Sec. 3.5.4.19.C, Sec. 3.5.4.7.D and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3. (Ord. No. 9967, §2, 7/1/04)

c. Entertainment, subject to: Sec. 3.5.4.4.F and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3. (Ord. No. 9967, 7/1/04)

2. Retail Trade Use Group, Sec. 6.3.10

a. General Merchandise Sales, subject to: Sec. 3.5.9.2.A and .B

(Ord. No. 9336, §1, 12/13/99)

2.3.4.5 Accessory Land Uses. Land uses accessory to the Permitted or Secondary Land Uses are allowed subject to compliance with Sec. 3.2.5.

**2.3.5 "R-2" RESIDENCE ZONE.**

2.3.5.1 Purpose. This zone provides for medium density, single-family and multifamily, residential development, together with schools, parks, and other public services necessary for an urban residential environment.

2.3.5.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

A. Residential Use Group, Sec. 6.3.8

1. Family Dwelling "I", subject to: Sec. 3.5.7.1.F (Ord. No. 9443, §1, 11/27/00)

2. Family Dwelling "K", subject to: Sec. 3.5.7.1.F (Ord. No. 9443, §1, 11/27/00)

3. Family Dwelling "RCP-6", subject to: Sec. 3.6.1 and Sec. 3.5.7.1.F (Ord. No. 9443, 11/27/00)

4. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "I", subject to: Sec. 3.5.7.8.B.1, .C.1, and .D (Ord. No. 9138, §1, 10/5/98)

5. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "41", subject to: Sec. 3.5.7.8.B.1, .C.4, .D, and .G (Ord. No. 9138, §1, 10/5/98)

6. Residential Care Services: Rehabilitation Service - children's facilities "41", subject to: Sec. 3.5.7.8.B.1, .C.4, .D, and .G (Ord. No. 9138, §1, 10/5/98)

Sec. 3.5.7.8.A, .B.1, .C.1, and .D

7. Residential Care Services: Shelter Care - victims of domestic violence "41", subject to Sec. 3.5.7.8.A, .B.1, .C.1, .D, and .I

B. Agricultural Use Group, Sec. 6.3.3

1. Crop Production "41", subject to: Sec. 3.5.2.2

C. Civic Use Group, Sec. 6.3.4

1. Cemetery "41", subject to: Sec. 3.5.3.1.A

2. Cultural Use "12", subject to: Sec. 3.5.3.2

3. Educational Use: Elementary and Secondary Schools "11", subject to: Sec. 3.5.3.7 (Ord. No. 9075, §1, 6/15/98)

4. Postal Service "12", subject to: Sec. 3.5.3.2

5. Protective Service "12", subject to: Sec. 3.5.3.2 and Sec. 3.5.13.6

6. Religious Use "12"

D. Commercial Services Use Group, Sec. 6.3.5

1. Administrative and Professional Office "8", subject to: Sec. 3.5.3.2

2. Communications "41", subject to: Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8 §1, 3/3/97)

3. Day Care "41"

a. Adult day care, subject to: Sec. 3.5.4.25.A

b. Child care, subject to: Sec. 3.5.4.3.A, .B, .C, .D, .E, .F.1, and .G.4 (Ord. No. 8808, §1, 1/27/97)

E. Recreation Use Group, Sec. 6.3.7

1. Neighborhood Recreation "12", subject to: Sec. 3.5.13.2 and Sec. 3.5.13.3

**2.3.5.3 Special Exception Land Uses.** The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

A. Commercial Services Use Group, Sec. 6.3.5

1. Communications "41", limited to wireless communication towers and antennae, subject to: Sec. 3.5.4.20.B, .C, and .E.2, or Sec. 3.5.4.20.B, .C, and .F.1, or Sec. 3.5.4.20.B, .C, and .G (Ord. No. 8813, §1, 3/3/97)

2. Day Care "41", subject to: Sec. 3.5.13.5 and approval through a Zoning Examiner Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)



a. Child care, subject to: Sec. 3.5.4.3.A, .B, .C, .D, .E, .F.3, .G.6, and .H, or

b. Child care, subject to: Sec. 3.5.4.3.A, .B, .H, and .I

3. Medical Service "19", subject to: Sec. 3.5.4.8.B, Sec. 3.5.4.9.A, .B.1, .C, and .D, a approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

#### B. Residential Use Group, Sec. 6.3.8

1. Home Occupation: Travelers' Accommodation, Lodging, subject to: Sec. 3.5.7.4.C, .F, .G, .H, .I, .J, .K, .L, .M, and .N and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

2. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "41", subject to: Sec. 3.5.7.8.B.1, .C.2, and .D and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9138, §1, 10/5/03; Ord. No. 9967, §2, 7/1/04)

3. Residential Care Services: Rehabilitation Service or Shelter Care "41", subject to: 3.5.7.8.A, .B.1, .C.2, .D, and .I and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53, or (Ord. No. 9967, §2, 7/1/04)

4. Residential Care Services: Rehabilitation Service or Shelter Care "41", subject to: 3.5.7.8.A, .B.1, .C.4, .D, and .H and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

#### C. Utilities Use Group, Sec. 6.3.12

1. Distribution System "41", subject to: Sec. 3.5.11.1.A, .B, .E, .H, .I, and .K and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

#### D. Civic Use Group, Sec. 6.3.4

1. Educational Use: Elementary and Secondary Schools "11", subject to: Approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

2. Cultural Use "12", subject to: Sec. 3.5.3.5.B, .C, .D, .E, .F, .G, and .H and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3. Ord. No. 9336, §1, 12/13/99; Ord. No. 9967, §2, 7/1/04)

(Ord. No. 9075, §1, 6/15/98)

**2.3.5.4 Secondary Land Uses.** The following Land Use Classes are permitted within this zone as Secondary Land Uses, subject to the requirements of Sec. 3.2.4 and to any additional requirements listed with the (Ord. No. 8653, §1, 2/26/96)

#### A. Home Occupations are permitted as Secondary Land Uses to Family Dwelling.

1. Home Occupation: General Application, subject to: Sec. 3.5.7.2

2. Home Occupation: Day Care, subject to: Sec. 3.5.7.3

3. Home Occupation: Group Dwelling, subject to: Sec. 3.5.7.9.B, .C, and .D

4. Home Occupation: Travelers' Accommodation, Lodging, subject to: Sec. 3.5.7.4.B

.F, .G, .H, .I, .J, .K, and .L

B. The following are permitted as Secondary Land Uses to Religious Use.

1. Civic Use Group, Sec. 6.3.4

a. Cemetery, subject to: Sec. 3.5.3.1.D

2. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

C. Hazardous Material Storage is permitted as a Secondary Land Use to a Permitted Land Use subject to: Sec. 3.5.10.2.A and .B.1.

D. The following is permitted as a Secondary Land Use to Educational Use.

1. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

E. The following may be permitted as Secondary Land Uses to Cultural Use.

1. Commercial Services Use Group, Sec. 6.3.5

a. Food Service, subject to: Sec. 3.5.4.6.A and .C and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3. (Ord. No. 9967, § 7/1/04)

b. Alcoholic Beverage Service, subject to: Sec. 3.5.4.19.C, Sec. 3.5.4.7.D and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3. (Ord. No. 9967, §2, 7/1/04)

c. Entertainment, subject to: Sec. 3.5.4.4.F and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3. (Ord. No. 9967, § 7/1/04)

2. Retail Trade Use Group, Sec. 6.3.10

a. General Merchandise Sales, subject to: Sec. 3.5.9.2.A and .B

(Ord. No. 9336, §1, 12/13/99)

2.3.5.5 Accessory Land Uses. Land uses accessory to the Permitted or Secondary Land Uses are allowed subject to compliance with Sec. 3.2.5.

## 2.3.6 "R-3" RESIDENCE ZONE.

2.3.6.1 Purpose. This zone provides for high density, residential development and compatible uses.

2.3.6.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotes following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

A. Residential Use Group, Sec. 6.3.8

1. Family Dwelling "I", subject to: Sec. 3.5.7.1.F (Ord. No. 9077, §1, 6/22/98; Ord. No. 9443, §1, 11/27/00)
2. Family Dwelling "P", subject to: Sec. 3.5.7.1.F (Ord. No. 9443, §1, 11/27/00)
3. Family Dwelling "RCP-7", subject to: Sec. 3.6.1 and Sec. 3.5.7.1.F (Ord. No. 9443, 11/27/00)
4. Group Dwelling "30", subject to: Sec. 3.5.7.1.F (Ord. No. 9443, §1, 11/27/00)
5. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "P", subject to: Sec. 3.5.7.8.C.1 and .D
6. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "30", subject to: Sec. 3.5.7.8.C.4, .D, and .H (except no minimum lot size)
7. Residential Care Services: Rehabilitation Service - children's facilities "18", subject to: Sec. 3.5.7.8.A, .B.2, .C.1, and .D
8. Residential Care Services: Shelter Care - victims of domestic violence "18", subject to: Sec. 3.5.7.8.A, .B.2, .C.3, .D, and .I

(Ord. No. 9077, §1, 6/22/98)

B. Agricultural Use Group, Sec. 6.3.3

1. Crop Production "30", subject to: Sec. 3.5.2.2

C. Civic Use Group, Sec. 6.3.4

1. Cemetery "30", subject to: Sec. 3.5.3.1.A
2. Civic Assembly "18", subject to: Sec. 3.5.3.2
3. Cultural Use "18", subject to: Sec. 3.5.3.2
4. Educational Use: Elementary and Secondary Schools "11", subject to: Sec. 3.5.3.7 (Ord. No. 9075, §1, 6/15/98)
5. Postal Service "18", subject to: Sec. 3.5.3.2
6. Protective Service "18", subject to: Sec. 3.5.3.2 and Sec. 3.5.13.6
7. Religious Use "18"

D. Commercial Services Use Group, Sec. 6.3.5

1. Administrative and Professional Office "7", subject to: Sec. 3.5.3.2

2. Communications "30", subject to: Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8 §1, 3/3/97)

3. Day Care

a. Adult day care "30", subject to: Sec. 3.5.4.25.B

b. Child care "18", subject to: Sec. 3.5.4.3.A, .B, .C, .D, .E, .F.2, and .G.5

E. Recreation Use Group, Sec. 6.3.7

1. Neighborhood Recreation "18", subject to: Sec. 3.5.13.2 and Sec. 3.5.13.3

2.3.6.3 Special Exception Land Uses. The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

A. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Rehabilitation Service or Shelter Care "18", subject to: 3.5.7.8.A, .B.2, .C.3, .D, and .I and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04), or

2. Residential Care Services: Rehabilitation Service or Shelter Care "18", subject to: 3.5.7.8.A, .B.2, .C.4, .D, and .H and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

B. Commercial Services Use Group, Sec. 6.3.5

1. Communications "30", limited to wireless communication towers and antennae, subject to: Sec. 3.5.4.20.B, .C, and .E.2, or Sec. 3.5.4.20.B, .C, and .F.1, or Sec. 3.5.4.20.B, .C, and .G (Ord. No. 8813, §1, 3/3/97)

2. Day Care "18", subject to: Sec. 3.5.13.5 and approval through a Zoning Examiner Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

a. Child care, subject to: Sec. 3.5.4.3.A, .B, .C, .D, .E, .F.3, .G.7, and .H, or

b. Child care, subject to: Sec. 3.5.4.3.A, .B, .H, and .I

3. Medical Service "30", subject to: Sec. 3.5.4.8.B, Sec. 3.5.4.9.A, .B.1, .C, and .D, and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53 (Ord. No. 9967, §2, 7/1/04)

C. Utilities Use Group, Sec. 6.3.12

1. Distribution System "18", subject to: Sec. 3.5.11.1.A, .B, .E, .H, .I, and .K and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

D. Civic Use Group, Sec. 6.3.4

1. Educational Use: Elementary and Secondary Schools "11", subject to: Approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53. (Ord. No. 9967, §2, 7/1/04)

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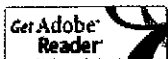
## Land Use Code

### Article 3. DEVELOPMENT REGULATIONS

#### DIVISION 5. PERFORMANCE CRITERIA

##### SECTIONS:

- [3.5.1 GENERAL](#)
- [3.5.2 AGRICULTURAL USE GROUP](#)
- [3.5.3 CIVIC USE GROUP](#)
- [3.5.4 COMMERCIAL SERVICES USE GROUP](#)
- [3.5.5 INDUSTRIAL USE GROUP](#)
- [3.5.6 RECREATION USE GROUP](#)
- [3.5.7 RESIDENTIAL USE GROUP](#)
- [3.5.8 RESTRICTED ADULT ACTIVITIES USE GROUP](#)
- [3.5.9 RETAIL TRADE USE GROUP](#)
- [3.5.10 STORAGE USE GROUP](#)
- [3.5.11 UTILITIES USE GROUP](#)
- [3.5.12 WHOLESALING USE GROUP](#)
- [3.5.13 GENERALLY APPLIED CRITERIA](#)



#### 3.5.1 GENERAL.

3.5.1.1 Purpose. To provide additional performance criteria for certain land uses in order to mitigate impacts on adjacent land uses, on the immediate neighborhood, and on the community.

3.5.1.2 Applicability. These requirements are in addition to those required of principal structures in Sec. 3.2.3.2 of the *Land Use Code (LUC)* and are applied only when required in a zone for a particular use. Where the regulations in Sec. 3.2.3.1 or Sec. 3.2.3.2 and the performance criteria result in differing requirements, the same criteria (e.g., lot coverage), the specific performance criteria shall apply. (Ord. No. 9138, §1.

#### 3.5.2 AGRICULTURAL USE GROUP.

##### 3.5.2.1 Animal Production.

###### A. Provisions Relating to Animals in General.

1. All structures for animals must be set back at least fifty (50) feet from all property lines and corrals which must be set back ten (10) feet from all property lines.
2. All stables, barns, and animal sheds or shelters must be set back at least one hundred (100) feet from any property line.

###### B. Provisions Relating to Livestock.

1. No more than two (2) horses or two (2) head of cattle are allowed per each thirty-six (36,000) square feet of lot area.
2. A stock-tight fence and necessary cattle guards shall be erected and maintained along the boundaries of any area where livestock is kept or grazed. This provision shall not apply to lot lines where the adjacent property is zoned IR or to open range as determined under Revised Statutes (ARS).
3. All horses, cattle, sheep, goats, or similar animals must be confined within a stock-

3. The use does not occupy more than twenty-five (25) percent of the floor area of the building.

B. The listed secondary uses, if permitted, are subject to the following requirements.

1. No merchandise or supplies shall be stored or displayed outside the building.

2. No exterior or public advertising or signs are allowed, except as permitted for secondary uses.

3. The uses are restricted to delicatessen, snack bar, food store, coin-operated laundry station for dry cleaning.

#### 3.5.7.6 Mobile Home Dwelling Secondary Uses.

A. Vehicle rental and sales are restricted to the sale of mobile home model units in mobile home parks.

B. Each model home shall have the same setback and spacing requirements as other units.

C. The number of spaces allotted for model homes shall be no more than five (5) percent of the total spaces in the mobile home park.

D. There shall be no exterior display or advertising other than one (1) unilluminated sign not more than six (6) square feet at each model. The sign may not be over six (6) feet in height.

#### 3.5.7.7 Family Dwelling or Mobile Home Dwelling as Secondary Use in Industrial Zones.

A. The dwelling is permitted as a secondary use to an Industrial, Wholesaling, or Storage Use I, or I-2 zones.

B. Restricted to one (1) single-family or mobile home dwelling for a caretaker of the principal use.

C. The dwelling shall conform to the development criteria for the principal use.

#### 3.5.7.8 Residential Care Services.

A. A Rehabilitation Service or Shelter Care use shall not be located within twelve hundred (1,200) feet in any direction, from another Rehabilitation Service or Shelter Care use. The applicant for such use shall provide an inventory of such uses within twelve hundred (1,200) feet of the site prior to the establishment of the use. (Ord. No. 9392, §1, 5/22/00)

B. Other Services.

1. Accessory treatment, including counseling or other types of meetings, is not allowed for nonresidents of the facility.

2. Accessory treatment, including counseling or other types of meetings, is allowed for nonresidents of the facility, if limited to twenty-five (25) percent of the gross floor area of the facility.

C. Maximum Number of Residents.

1. Care is permitted for a maximum of ten (10) residents.

2. Care is permitted for a maximum of fifteen (15) residents.

3. Care is permitted for a maximum of twenty (20) residents.

4. Care is permitted for an unlimited number of residents.

D. If licensing is required by the State of Arizona for the use, proof of such licensure shall be (Ord. No. 9392, §1, 5/22/00)

E. Prior to establishment of a Rehabilitation Service or Shelter Care in an industrial zone, applicant shall provide to the Development Services Department a report and site environs analysis facility indicating that adequate measures are provided to assure the health, safety, and welfare of residents of the facility in respect to any industrial process, use, or storage carried out on the adjacent properties. (Ord. No. 9967, §3, 7/1/04)

F. The site is located at least five hundred (500) feet, measured in a straight line, from the zone boundary line of R-3 or more restrictive zoning.

G. Minimum lot size is three (3) acres. Lot coverage is limited to fifty (50) percent. Minimum all interior lot lines adjoining residential zoning is twenty-five (25) feet.

H. Minimum lot size is one and one-half (1.5) acres. Lot coverage is limited to sixty (60) percent. Minimum setback from all interior lot lines adjoining residential zoning is twenty (20) feet.

I. Minimum lot size is twenty thousand (20,000) square feet.

#### 3.5.7.9 Home Occupation: Group Dwelling.

A. Room and board may be provided to not more than two (2) persons in the Family Dwelling members of the family or household.

B. Room and board may be provided to not more than four (4) persons in the Family Dwelling members of the family or household.

C. Meals may be served only to roomers or boarders residing in the Family Dwelling. Separate facilities in guest rooms shall be prohibited.

D. Parking requirements shall be as required for Group Dwellings, Sec. 3.3.4.

#### 3.5.7.10 Artist Studio/Residence in I-1.

A. The use is limited to structures in existence on February 25, 1991, within the designated artist studio/residence area as defined in Sec. 6.2.1.

B. The use will not displace existing industrial uses.

C. The appearance and structural integrity of the structure are preserved or enhanced.

D. Residential use of the property is incidental and secondary to the artist studio use, with no fifty (50) percent of the floor area devoted to the secondary residential use.

E. The secondary residential use is occupied by an artist who is also the occupant of the primary studio use.

F. Adequate measures are provided to assure the health, safety, and welfare of the occupants in any industrial process, use, or storage carried out in the artist studio/residence or on adjacent properties.

G. The use will not impair or interfere with the continued industrial use of adjacent properties or purposes of the industrial zone.

3.5.7.11 Mobile Home Dwelling Secondary Uses. In mobile home parks in MH-2 and mobile home parks as of July 1, 1995, in MH-1(MH), a maximum of twenty-five (25) percent of the existing spaces designed for mobile home use shall be used for other purposes.

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## Land Use Code

### Article 2. ZONES

#### DIVISION 6. MIXED USE ZONES

[Printable PDF](#)

#### SECTIONS:

[2.6.1 "OCR-1" OFFICE/COMMERCIAL/RESIDENTIAL ZONE](#)

[2.6.2 "OCR-2" OFFICE/COMMERCIAL/RESIDENTIAL ZONE](#)

[2.6.3 PLANNED AREA DEVELOPMENT \(PAD\) ZONE](#)

[2.6.4 "MU" MULTIPLE USE ZONE](#)

#### 2.6.1 "OCR-1" OFFICE/COMMERCIAL/RESIDENTIAL ZONE.

2.6.1.1 Purpose. The purpose of this zone is to provide for high-rise development, that serves the community and region, located in major activity centers or at transit centers. A mixture of development types is encouraged, including office, commercial, and high-density residential uses.

2.6.1.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

#### A. Commercial Services Use Group. Sec. 6.3.5

1. Administrative and Professional Office "35"
2. Alcoholic Beverage Service "35", subject to: Sec. 3.5.4.19.C
3. Communications "35", subject to: Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8 §1, 3/3/97)
4. Day Care "35"
5. Entertainment "35", subject to: Sec. 3.5.4.4.A, .B, .C, and .D and Sec. 3.5.4.19.C
6. Financial Service "35" subject to: Sec. 3.5.4.5.C (Ord. No. 10252, §1, 2/28/06)
7. Food Service "35", subject to: Sec. 3.5.4.6.C
8. Medical Service - Extended Health Care "35" (Ord. No. 9138, §1, 10/5/98)
9. Medical Service - Major "35" (Ord. No. 9138, §1, 10/5/98)
10. Medical Service - Outpatient "35", subject to: Sec. 3.5.4.8.B (Ord. No. 9138, §1, 10/5/98)
11. Parking "35"
12. Personal Service "35"



13. Technical Service "35"

14. Transportation Service, Land Carrier, "35"

15. Travelers' Accommodation, Lodging, "35"

(Ord. No. 9138, §1, 10/5/98)

B. Retail Trade Use Group, Sec. 6.3.10

1. Food and Beverage Sales "35"

2. General Merchandise Sales "35", subject to: Sec. 3.5.9.2.A

3. Vehicle Rental and Sales "35", subject to: Sec. 3.5.9.5.A and .B (Ord. No. 8653, § 2/26/96)

C. Civic Use Group, Sec. 6.3.4

1. Civic Assembly "35"

2. Correctional Use: Supervision Facility "8", subject to: Sec. 3.5.3.4.B.1, .3.a, .4.b, .8, and .10

3. Cultural Use "35"

4. Educational Use: Elementary and Secondary Schools "35", subject to: Sec. 3.5.3.7 (Ord. No. 9075, §1, 6/15/98)

5. Educational Use: Postsecondary Institution and Instructional School "35" (Ord. No. 9075, §1, 6/15/98)

6. Membership Organization "35"

7. Postal Service "35"

8. Protective Service "35"

9. Religious Use "35"

(Ord. No. 9075, §1, 6/15/98)

D. Recreation Use Group, Sec. 6.3.7

1. Recreation "35"

E. Residential Use Group, Sec. 6.3.8

1. Family Dwelling "W"

2. Group Dwelling "35"

3. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "35", subject to: Sec. 3.5.7.8.C.4 and .D

4. Residential Care Services: Rehabilitation Service - children's facilities "35", subject to Sec. 3.5.7.8.A, .C.1, and .D

5. Residential Care Services: Shelter Care - victims of domestic violence "35", subject to Sec. 3.5.7.8.A, .C.3, and .D

6. Residential Care Services: Rehabilitation Service or Shelter Care "35", subject to: 3.5.7.8.A, .C.4, .D, .F, and .H (no minimum lot size)

F. Restricted Adult Activities Use Group, Sec. 6.3.9, subject to: Sec. 3.5.8.1

1. Adult Commercial Services "35"

2. Adult Recreation "35""35"

3. Adult Retail Trade "35"

G. Storage Use Group, Sec. 6.3.11

1. Commercial Storage "35", subject to: Sec. 3.5.10.1

2. Personal Storage "35", subject to: Sec. 3.5.10.3.C and .F (Ord. No. 8653, §1, 2/26/01; Ord. No. 9631, §1, 12/10/01)

H. Utilities Use Group, Sec. 6.3.12

1. Distribution System "35", subject to: Sec. 3.5.11.1.A, .E, and .I

I. Industrial Use Group, Sec. 6.3.6

1. Salvaging and Recycling, limited to household goods donation center, "35", subject to Sec. 3.5.5.6.B, .F, .G, .H, .I, .J, and .K; Sec. 3.5.13.3; and Sec. 3.5.13.4

(Ord. No. 9915, §5, 11/24/03)

2.6.1.3 Special Exception Land Uses. The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

A. Retail Trade Use Group, Sec. 6.3.10

1. Swap Meets and Auctions "35", subject to: Sec. 3.5.9.4 and approval through a Lir Notice Procedure, Sec. 23A-40 (Ord. No. 9967, §2, 7/1/04)

2. Food and Beverage Sales - Large Retail Establishment "35", subject to: Sec. 3.5.9, and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3. (Ord. No. 9293, §1, 9/27/99; Ord. No. 9967, §2, 7/1/04)

3. General Merchandise Sales - Large Retail Establishment "35", subject to: Sec. 3.5, and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3. (Ord. No. 9293, §1, 9/27/99; Ord. No. 9967, §2, 7/1/04)

B. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Rehabilitation Service or Shelter Care "31", subject to:

3.5.7.8.A, .C.4, .D, and .H (no minimum lot size) and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53 (Ord. No. 9967, §2, 7/1/04)

C. Civic Use Group, Sec. 6.3.4

1. Correctional Use: Custodial Facility "8", subject to: Sec. 3.5.3.4.B.1, .3.a, .4.b, .5.t, .9, and .10 and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.5.3, (Ord. No. 9967, §2, 7/1/04)

2. Educational Use: Elementary and Secondary Schools "35", subject to: Approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53 (Ord. No. 9075, §1, 6/15/98; Ord. No. 9967, §2, 7/1/04)

D. Commercial Services Use Group, Sec. 6.3.5

1. Alcoholic Beverage Service - Large Bar "35", subject to: Sec. 3.5.4.19.B and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3, (Ord. No. 99 §2, 7/1/04)

2. Communications "35", subject to: Sec. 3.5.4.20.B, .C, and .E.1, or Sec. 3.5.4.20.B, .E.2, or Sec. 3.5.4.20.B, .C, and .F.2, or Sec. 3.5.4.20.B, .C, and .G (Ord. No. 88 §1, 3/3/97)

3. Entertainment - Dance Hall "35", subject to: Sec. 3.5.4.19.B and approval through Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3, (Ord. No. 9967, §2, 7/1/04)

4. Food Service, limited to a soup kitchen, "35", subject to: Sec. 3.5.4.6.D and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3, (Ord. No. 99 §2, 7/1/04)

5. Medical Service - Outpatient, limited to a blood donor center, "35", subject to: Sec. 3.5.4.8.C and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3, (Ord. No. 8582, §1, 9/25/95; Ord. No. 9967, §2, 7/1/04)

(Ord. No. 8813, §1, 3/3/97)

2.6.1.4 Secondary Land Uses. The following Land Use Classes are permitted within this zone as Secondary Land Uses, subject to the requirements of Sec. 3.2.4 and to any additional requirements listed with the (Ord. No. 8653, §1, 2/26/96)

A. Home Occupations are permitted as Secondary Land Uses to Family Dwelling.

1. Home Occupation: General Application, subject to: Sec. 3.5.7.2

B. The following are permitted as Secondary Land Uses to the Commercial Services, Retail Trade or Wholesaling Use Groups, limited to fifty (50) percent of the gross floor area. More than fifty (50) percent of the gross floor area may be allocated to the permitted Secondary Land Use if the criteria in Sec. 3.5.5 are met.

1. Industrial Use Group, Sec. 6.3.6

a. General Manufacturing

b. Heavy Equipment Manufacturing

c. Perishable Goods Manufacturing, limited to: Baked goods and confectionery products manufacturing only (Ord. No. 9138, §1, 10/5/98)

d. Precision Manufacturing

c. Primary Manufacturing

C. The following are permitted as Secondary Land Uses to Religious Use.

1. Civic Use Group, Sec. 6.3.4

a. Cemetery, subject to: Sec. 3.5.3.1.D

2. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

D. Hazardous Material Storage is permitted as a Secondary Land Use to a Permitted Land Use subject to: Sec. 3.5.10.2.A and .B.3.

E. The following is permitted as a Secondary Land Use to all uses in the Commercial Service: Retail Trade Use Groups and to Educational Use.

1. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

F. The following is permitted as a Secondary Land Use to Alcoholic Beverage Service.

1. Industrial Use Group, Sec. 6.3.6

a. Perishable Goods Manufacturing, subject to: Sec. 3.5.5.2.F, .G, and .H

(Ord. No. 8653, §1, 2/26/96)

2.6.1.5 Accessory Land Uses. Land uses accessory to the Permitted or Secondary Land Uses are allowed subject to compliance with Sec. 3.2.5.

## **2.6.2 "OCR-2" OFFICE/COMMERCIAL/RESIDENTIAL ZONE.**

2.6.2.1 Purpose. The purpose of this zone is to provide for high-rise development, that serves the community and region, located in major activity centers. A mixture of development types is encouraged including office, commercial, and high-density residential uses.

2.6.2.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotes following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

A. Commercial Services Use Group, Sec. 6.3.5

1. Administrative and Professional Office "36"

2. Alcoholic Beverage Service "36", subject to: Sec. 3.5.4.19.C

3. Communications "36", subject to: Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8 §1, 3/3/97)

4. Day Care "36"

5. Entertainment "36", subject to: Sec. 3.5.4.4.A, .B, .C, and .D and Sec. 3.5.4.19.C

6. Financial Service "36" subject to: Sec. 3.5.4.5.C (Ord. No. 10252, §1, 2/28/06)

7. Food Service "36", subject to: Sec. 3.5.4.6.C

8. Medical Service - Extended Health Care "36", subject to: Sec. 3.5.13.5 (Ord. No. 5 §1, 10/5/98)

9. Medical Service - Major "36" (Ord. No. 9138, §1, 10/5/98)

10. Medical Service - Outpatient "36", subject to: Sec. 3.5.4.8.B (Ord. No. 9 §1, 10/5/98)

11. Parking "36"

12. Personal Service "36"

13. Technical Service "36"

14. Transportation Service, Land Carrier, "36"

15. Travelers' Accommodation, Lodging, "36"

(Ord. No. 9138, §1, 10/5/98)

B. Retail Trade Use Group, Sec. 6.3.10

1. Food and Beverage Sales "36"

2. General Merchandise Sales "36", subject to: Sec. 3.5.9.2.A

3. Vehicle Rental and Sales "36", subject to: Sec. 3.5.9.5.A and .B (Ord. No. 8653, § 2/26/96)

C. Civic Use Group, Sec. 6.3.4

1. Civic Assembly "36"

2. Correctional Use: Supervision Facility "8", subject to: Sec. 3.5.3.4.B.1, .3.a, .4.b, ..8, and .10

3. Cultural Use "36"

4. Educational Use: Elementary and Secondary Schools "36", subject to: Sec. 3.5.3.7 (Ord. No. 9075, §1, 6/15/98)

5. Educational Use: Postsecondary Institution and Instructional School "36" (Ord. No.

9075, §1, 6/15/98)

6. Membership Organization "36"

7. Postal Service "36"

8. Protective Service "36"

9. Religious Use "36"

(Ord. No. 9075, §1, 6/15/98)

D. Recreation Use Group, Sec. 6.3.7

1. Recreation "36"

E. Residential Use Group, Sec. 6.3.8

1. Family Dwelling "X"

2. Group Dwelling "36"

3. Residential Care Services: Adult Care Service or Physical and Behavioral Health Service "36", subject to: Sec. 3.5.7.8.C.4 and .D

4. Residential Care Services: Rehabilitation Service - children's facilities "36", subject to: Sec. 3.5.7.8.A, .C.1, and .D

5. Residential Care Services: Shelter Care - victims of domestic violence "36", subject to: Sec. 3.5.7.8.A, .C.3, and .D

F. Restricted Adult Activities Use Group, Sec. 6.3.9, subject to: Sec. 3.5.8.1

1. Adult Commercial Services "36"

2. Adult Recreation "36"

3. Adult Retail Trade "36"

G. Storage Use Group, Sec. 6.3.11

1. Commercial Storage "36", subject to: Sec. 3.5.10.1

2. Personal Storage "36", subject to: Sec. 3.5.10.3.C and .F (Ord. No. 8653, §1, 2/26/01; Ord. No. 9631, §1, 12/10/01)

H. Utilities Use Group, Sec. 6.3.12

1. Distribution System "36", subject to: Sec. 3.5.11.1.A, .E, and .I

I. Industrial Use Group, Sec. 6.3.6

1. Salvaging and Recycling, limited to household goods donation center, "36", subject to: Sec. 3.5.5.6.B, .F, .G, .H, .I, .J, and .K; Sec. 3.5.13.3; and Sec. 3.5.13.4

(Ord. No. 9915, §5, 11/24/03)

2.6.2.3 Special Exception Land Uses. The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

A. Retail Trade Use Group, Sec. 6.3.10

1. Swap Meets and Auctions "36", subject to: Sec. 3.5.9.4 and approval through a Limited Notice Procedure, Sec. 23A-40 (Ord. No. 9967, §2, 7/1/04)

2. Food and Beverage Sales - Large Retail Establishment "36", subject to: Sec. 3.5.9. and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3. (Ord. No. 9293, §1, 9/27/99; Ord. No. 9967, §2, 7/1/04)

3. General Merchandise Sales - Large Retail Establishment "36", subject to: Sec. 3.5. and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3. (Ord. No. 9293, §1, 9/27/99; Ord. No. 9967, §2, 7/1/04)

B. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Rehabilitation Service or Shelter Care "31", subject to: 3.5.7.8.A, .C.4, .D, and .H (no minimum lot size) and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53 (Ord. No. 9967, §2, 7/1/04)

C. Civic Use Group, Sec. 6.3.4

1. Correctional Use: Custodial Facility "8", subject to: Sec. 3.5.3.4.B.1, .3.a, .4.b, .5.t, .9, and .10 and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4. 5.4.3. (Ord. No. 9967, §2, 7/1/04)

2. Educational Use: Elementary and Secondary Schools "36", subject to: Approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53 (Ord. No. 9075, §1, 6/15/98; Ord. No. 9967, §2, 7/1/04)

D. Commercial Services Use Group, Sec. 6.3.5

1. Alcoholic Beverage Service - Large Bar "36", subject to: Sec. 3.5.4.19.B and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3. (Ord. No. 9967, §2, 7/1/04)

2. Communications "36", subject to: Sec. 3.5.4.20.B, .C, and .E.1. or Sec. 3.5.4.20.B, .C, and or Sec. 3.5.4.20.B, .C, and .F.2, or Sec. 3.5.4.20.B, .C, and .G (Ord. No. 8813, §1, 3/3/97)

3. Entertainment - Dance Hall "36", subject to: Sec. 3.5.4.19.B and approval through Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3. (Ord. No. 9967, §2, 7/1/04)

4. Food Service, limited to a soup kitchen, "36", subject to: Sec. 3.5.4.6.D and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and 5.4.3. (Ord. No. 99 §2, 7/1/04)

5. Medical Service - Outpatient, limited to a blood donor center, "36", subject to: Sec 3.5.4.8.C and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 5.4.3. (Ord. No. 8582, §1, 9/25/95; Ord. No. 9967, §2, 7/1/04)

(Ord. No. 8813, §1, 3/3/97)

2.6.2.4 Secondary Land Uses. The following Land Use Classes are permitted within this zone as Secondary Land Uses, subject to the requirements of Sec. 3.2.4 and to any additional requirements listed with the (Ord. No. 8653, §1, 2/26/96)

A. Home Occupations are permitted as Secondary Land Uses to Family Dwelling.

1. Home Occupation: General Application, subject to: Sec. 3.5.7.2

B. The following are permitted as Secondary Land Uses to the Commercial Services, Retail Trade or Wholesaling Use Groups, limited to fifty (50) percent of the gross floor area. More than fifty (50) percent of the gross floor area may be allocated to the permitted Secondary Land Use if the criteria in Sec. 3.5.5 are met.

1. Industrial Use Group, Sec. 6.3.6

a. General Manufacturing

b. Heavy Equipment Manufacturing

c. Perishable Goods Manufacturing, limited to: Baked goods and confectionery products manufacturing only (Ord. No. 9138, §1, 10/5/98)

C. The following are permitted as Secondary Land Uses to Religious Use.

1. Civic Use Group, Sec. 6.3.4

a. Cemetery, subject to: Sec. 3.5.3.1.D

2. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

D. Hazardous Material Storage is permitted as a Secondary Land Use to a Permitted Land Use subject to: Sec. 3.5.10.2.A and .B.3.

E. The following is permitted as a Secondary Land Use to all uses in the Commercial Services, Retail Trade Use Groups and to Educational Use.

1. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

F. The following is permitted as a Secondary Land Use to Alcoholic Beverage Service.

1. Industrial Use Group, Sec. 6.3.6

a. Perishable Goods Manufacturing, subject to: Sec. 3.5.5.2.F, .G, and .H

(Ord. No. 8653, §1, 2/26/96)



2.6.2.5 Accessory Land Uses. Land uses accessory to the Permitted or Secondary Land Uses are allow subject to compliance with Sec. 3.2.5.

### 2.6.3 PLANNED AREA DEVELOPMENT (PAD) ZONE.

2.6.3.1 Purpose. The purpose of the Planned Area Development (PAD) zone is to enable and encourag comprehensively planned development in accordance with adopted plans and policies.

2.6.3.2 Land Use Regulations.

A. A PAD zone is a zoning classification which provides for the establishment of zoning distr with distinct regulations as adopted by Mayor and Council. A PAD zone shall be identified as Planned Area Development (PAD) District and may have land use regulations different from zoning regulations applicable to other zoning districts in this Chapter and any other PAD Dist

B. PAD Districts are identified on the City Zoning Maps by the letters "PAD" followed by a number and the name of the District, such as "PAD-1, Williams Addition Planned Area Development (PAD) District," signifying the set of regulations adopted and applicable to that District.

C. Where a provision in a PAD District varies from the *Land Use Code (LUC)*, the provisions the PAD District shall govern.

2.6.3.3 Establishment of a PAD District.

A. A PAD District is established through a Zoning Examiner Legislative Procedure, Sec. 5.4, Sec. 5.4.3 (Ord. No. 9967, §2, 7/1/04)

B. Each PAD District must be in compliance with the adopted *General Plan* and applicable subregional, area, and neighborhood plans. (Ord. No. 9517, §2, 2/12/01)

1. A separate PAD zone shall be adopted for each PAD District.

2. A PAD District must have the same boundaries as the applicable PAD zone.

2.6.3.4 Districts Established. The following PAD Districts are established. The list shall be administratively updated, upon adoption of additional PAD Districts, through the appropriate procedur

A. "PAD-1" Williams Addition. Adopted on June 1, 1981, by Resolution No. 11533.

B. "PAD-2" La Entrada. Adopted on February 22, 1982, by Resolution No. 11761.

C. "PAD-3" Gateway Center. Adopted on January 17, 1983, by Resolution No. 12133.

D. "PAD-4" Rio Nuevo. Adopted on January 12, 1987, by Resolution No. 13903.

E. "PAD-5" Tucson Community Center. Adopted on August 3, 1987, by Resolution No. 1413

F. "PAD-6A" Civano. Adopted on October 20, 1997, by Ordinance No. 8970.

G. "PAD-7" La Estancia. Adopted on October 11, 1999, by Ordinance No. 9298.

H. "PAD-8" Jewish Community Campus. Adopted on February 28, 2000, by Ordinance No. 9

2.6.3.5 Initiation of a PAD District. A PAD District is initiated by filing an application for a Zoning Examiner Legislative Procedure in conformance with Sec. 5.4.1 and 5.4.3, with the Development Serv Department. The application may be filed by the owners of the subject property, an agent for the prope

owners, or the Mayor and Council. The application will be accepted for processing only if the following requirements are met. (Ord. No. 9967, §2, 7/1/04)

A. The site is under single ownership or control.

B. The site's land area is a minimum of forty (40) acres, or if located in the Downtown Redevelopment District as defined in Sec. 6.2.4 or in the Rio Nuevo and Downtown (RND) Z as defined in Sec. 6.2.18, there is no minimum site area. The Mayor and Council may authorize the initiation of a PAD District of less than the size required by this Section if the proposed PAD District is consistent with the intent of the PAD zone. (Ord. No. 9780, §2, 10/14/02)

C. The PAD District shall be contiguous and in such configuration as to accommodate a well-integrated project.

2.6.3.6 Application. PAD District documents shall include the following elements in the form of either map(s), text, or both, as applicable.

A. Introduction and Policy. A description of the purpose, scope, main concepts, and goals of the PAD District, indicating the following.

1. Substantial conformance with the *General Plan* and City land use plans which encompass all or part of the proposed PAD District. (Ord. No. 9517, §2, 2/12/01)
2. The rationale for the use of a PAD zone rather than the use of other zones.
3. The benefits to the community and the applicant by the use of a PAD District.
4. The suitability of the PAD District to significant environmental factors if applicable.
5. The compatibility of the PAD District with adjoining land uses.
6. The physical and economic suitability and feasibility of the PAD District with existing infrastructure and services.

B. Site Analysis.

1. Significant natural and built constraints of the site and surroundings.
2. Major transportation and circulation elements intended to serve the PAD District.
3. Existing zoning of the PAD District site and parcels within one hundred fifty (150) feet.
4. Adjacent parcels and structures within one hundred fifty (150) feet of the PAD District boundary.
5. Off-site open space, recreational facilities, parks, and trails within one (1) mile of the PAD District site.
6. Public, educational, community, and cultural facilities on site and within one (1) mile off site.
7. Existing drainage.
8. PAD District site affected by any overlay zone ordinances and the Major Streets and Routes (MS&R) Ordinance.

9. Inventory of existing structures, roads, and other development.

10. Location and extent of existing provisions for sewage disposal, effluent use, stormwater drainage, and utilities.

11. Inventory of existing infrastructure and public services.

12. Hydrology and water resources.

13. Topography and slope.

14. Vegetation and wildlife.

15. Geology and soils.

16. Viewsheds and visual analysis.

17. Paleontological and cultural (archaeological and historical) sites, structures, and districts.

C. PAD District Proposal.

1. Illustrative site plan.

2. The general allocation and identification of major proposed land uses, including residential (by density range), nonresidential, open space, and recreational land uses.

3. Name, location, and extent of existing or proposed major streets located within the PAD District or needed for servicing the PAD District.

4. Typical street cross-sections.

5. A detailed listing of the permitted land uses in the PAD District.

6. A detailed listing of the regulations governing permitted uses, including, performance standards and standards for development, regulations for development densities, height, floor area and floor area ratios (FARs), open space, lot area and coverage, parking, landscaping, and other site improvements.

7. Standards for the conservation, development, or utilization of natural resources, including surface water, soils, vegetation, and wildlife.

8. Where applicable, the methods of conservation for scenic natural and built features, viewsheds.

9. Standards and responsibilities for maintenance of infrastructure and whether the infrastructure is public or private.

10. Standards for the phasing and construction of streets proposed for the PAD District or needed for servicing the project as identified in required study(ies) submitted with the PAD District proposal.

11. Standards for the phasing and construction of sewage disposal, effluent treatment, stormwater drainage, solid waste disposal, and public utilities as identified in required study(ies) submitted with the PAD District proposal.

12. A phasing schedule for the following, as applicable.

- a. The preservation of site features established by the PAD District.
- b. The development of the PAD District.
- c. The construction, dedication, and provision of public services.
- 13. A draft form of financial assurances to be recorded prior to ordinance adoption.
- 14. Specifications as to how and to what extent the PAD District is to supplement or supersede adopted City zoning regulations.
- 15. Standards for the interpretation of the PAD District regulations and requirements.
- 16. Development design guidelines.
- 17. General landscape program.
- 18. Drainage plan.
- 19. A traffic and transportation study which includes trip generation factors various modes, estimated trips per day by land use, proposed vehicular access and circulation plan, and traffic impacts by mode on adjacent development.
- 20. Impacts on existing structures, roads, and other development.
- 21. Impacts on existing infrastructure and public services.
- 22. Location and extent of proposed provisions for sewage disposal, effluent stormwater drainage, and utilities.

D. Other information as may be determined necessary by the Planning Director.

#### 2.6.3.7 PAD District Implementation and Assurances.

*A. PAD District Implementation.* The implementation of PAD Districts shall be in accordance with the procedures of the *LUC*. PAD Districts may establish additional implementation procedures, provided such methods are not in conflict with required procedures and are fully described by the PAD District document.

*B. Assurances.* The City may require financial or other assurances in accordance with Development Standard 1-04.0 for any PAD District and any individual phase of a PAD District assure the installation of required street, sewer, electric and water utilities, drainage, flood control and other improvements.

**2.6.3.8 Development Plan Approval.** No development shall occur within a PAD District unless and until a development plan is approved by the City in accordance with Sec. 5.3.8. The Development Services Director is granted the authority to approve PAD District development plans. (Ord. No. 9967, §2, 7/1/04)

**2.6.3.9 Enforcement.** Regulations adopted for each District are enforced in the same manner as provided in Article V, Administration, Division 5, of the *LUC*.

**2.6.3.10 Interpretation.** The Zoning Administrator shall interpret a PAD District per Sec. 1.2.1 and Sec. 23A-31. Interpretations of *LUC* provisions may be applied to similar PAD zone provisions. (Ord. No. 9967, §2, 7/1/04)

#### 2.6.3.11 Amendment Procedures.

A. PAD District amendments shall be in substantial conformance with the objectives of the PAD District and in conformance with Sec. 5.4.3.10. (Ord. No. 9967, §2, 7/1/04).

B. Amendment Application.

1. An amendment to a PAD District may be initiated by the property owner, the owner agent, or the Mayor and Council upon submittal of a written application to amend one or more of the PAD District regulations.

2. The application shall be accompanied by a statement documenting the need for the amendment.

3. The Development Services Department Director shall determine if the amendment would result in a substantial change in the PAD District. A substantial change is one which: (Ord. No. 9967, §2, 7/1/04)

a. Allows uses not otherwise permitted in the PAD District or a section of the PAD District; or

b. Varies or changes a PAD District policy; or

c. Increases the number of proposed residences per acre by more than ten (10) percent or exceeds the maximum number of dwelling units permitted within adopted PAD District; or

d. Changes designated buffers or perimeter landscaping, as delineated in the PAD District, which was established to adapt the PAD District to specific site characteristics or mitigate development impacts on the site and surrounding area; or

e. Varies the building height, FARs, lot coverage, or building setbacks by more than ten (10) percent of that delineated in the adopted PAD District; or

f. As a consequence of more than one (1) nonsubstantial change submitted concurrently, cumulatively results in a significant change in the objectives or goals of the PAD District; or

g. Results in a significant change in pedestrian or traffic circulation within the PAD District or in the surrounding area.

4. If the request is determined to be a substantial change, the Development Services Department Director shall refer the request to the Zoning Examiner (Examiner) for public hearing and recommendation to the Mayor and Council. The procedure for considering the change shall be a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4 (Ord. No. 9138, §1, 10/5/98; Ord. No. 9967, §2, 7/1/04)

a. A substantial change may require, as determined by the Development Services Department Director, submittal of amended items, such as a site analysis. (Ord. No. 9967, §2, 7/1/04)

5. The Development Services Department Director may administratively approve nonsubstantial changes. (Ord. No. 9967, §2, 7/1/04)

6. When requested in writing by the applicant, the Development Services Department Director may authorize a delay in the plan amendment process. (Ord. No. 9967, §2, 7/1/04)

(Ord. No. 9374, §1, 4/10/00)

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## Land Use Code

### Article 2. ZONES

#### DIVISION 7. INDUSTRIAL ZONES

[Printable PDF](#)

#### SECTIONS:

- [2.7.1 "P-I" PARK INDUSTRIAL ZONE](#)
- [2.7.2 "I-1" LIGHT INDUSTRIAL ZONE](#)
- [2.7.3 "I-2" HEAVY INDUSTRIAL ZONE](#)

#### 2.7.1 "P-I" PARK INDUSTRIAL ZONE.

2.7.1.1 Purpose. This zone provides for corporate business centers and for wholesaling and manufacturing activities that can be carried on in an unobtrusive, controlled manner.

2.7.1.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. [3.2.3](#).

##### A. Industrial Use Group, Sec. [6.3.6](#)

1. Craftwork "33", subject to: Sec. [3.5.5.1.B](#), .D, .E, .F, and .H
2. General Manufacturing "33", subject to: Sec. [3.5.5.1.B](#), .D, .E, .F, and .H
3. Motion Picture Industry "33", subject to: Sec. [3.5.5.1.A](#), .B, .D, .E, .F, and .H and [3.5.5.4](#)
4. Perishable Goods Manufacturing "33", subject to: Sec. [3.5.5.2.A](#) and .B and Sec. [3.5.5.1.B](#), .D, .E, .F, and .H (Ord. No. 8722, §1, 6/24/96)
5. Precision Manufacturing "33", subject to: Sec. [3.5.5.1.B](#), .D, .E, .F, and .H
6. Processing and Cleaning "33", subject to: Sec. [3.5.5.1.B](#), .D, .E, .F, and .H
7. Salvaging and Recycling "33", subject to: Sec. [3.5.5.1.B](#) and Sec. [3.5.5.6.B](#), .D, and (Ord. No. 9915, §6, 11/24/03)

(Ord. No. 8864, §1, 4/28/97)

##### B. Commercial Services Use Group, Sec. [6.3.5](#)

1. Administrative and Professional Office "33"
2. Communications "33", subject to: Sec. [3.5.4.20.A](#) or Sec. [3.5.4.20.B](#), .C, and .D.1 or .D.2 (Ord. No. 8813, §1, 3/3/97)
3. Day Care "33"

4. Financial Service "33" subject to: Sec. 3.5.4.5.C (Ord. No. 10252, §1, 2/28/06)

a. Drive-through services are permitted as an outdoor activity.

5. Food Service "33", subject to: Sec. 3.5.4.6.A and .C

a. Drive-through or drive-in services are permitted as an outdoor activity.

6. Medical Service - Outpatient "33", subject to: Sec. 3.5.4.8.B

7. Parking "33"

8. Personal Service "33"

9. Research and Product Development "33", subject to: Sec. 3.5.5.1.E, .F, and .H

10. Technical Service "33"

11. Travelers' Accommodation, Lodging, "33"

C. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Shelter Care - victims of domestic violence "33", subject to: Sec. 3.5.7.8.A, .C.3, and .D

2. Residential Care Services: Rehabilitation Service or Shelter Care "33", subject to: 3.5.7.8.A, .C.4, .D, .E, and .F

D. Retail Trade Use Group, Sec. 6.3.10

1. Vehicle Rental and Sales "33", subject to: Sec. 3.5.9.5.B and .C

E. Storage Use Group, Sec. 6.3.11

1. Commercial Storage "33", subject to: Sec. 3.5.10.1 and Sec. 3.5.5.1.H

F. Utilities Use Group, Sec. 6.3.12

1. Distribution System "33", subject to: Sec. 3.5.11.1.A, .B, and .D

G. Wholesaling Use Group, Sec. 6.3.13

1. Business Supply and Equipment Wholesaling "33", subject to: Sec. 3.5.5.1.H

2. Construction/Heavy Equipment Wholesaling "33", subject to: Sec. 3.5.5.1.H

3. Food and Beverage Wholesaling "33", subject to: Sec. 3.5.5.1.H

2.7.1.3 Special Exception Land Uses. The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

A. Retail Trade Use Group, Sec. 6.3.10

1. Swap Meets and Auctions "33", subject to: Sec. 3.5.9.4 and approval through a Lir Notice Procedure, Sec. 23A-40 (Ord. No. 9967, §2, 7/1/04)

B. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Rehabilitation Service or Shelter Care "33", subject to: 3.5.7.8.A, .C.4, .D, and .E and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53 (Ord. No. 9967, §2, 7/1/04)

C. Commercial Services Use Group, Sec. 6.3.5

1. Communications "33", subject to: Sec. 3.5.4.20.B, .C, and .E.1 or .E.2, or Sec. 3.5.4.20.B, .C, and .E.3, or Sec. 3.5.4.20.B, .C, and .F.2, or Sec. 3.5.4.20.B, .C, and .I

(Ord. No. 8813, §1, 3/3/97; Ord. No. 9374, §1, 4/10/00)

D. Civic Use Group, Sec. 6.3.4

1. Educational Use: Elementary and Secondary Schools, limited to Grades 9 through "34", subject to: Approval through a Zoning Examiner Full Notice Procedure, Sec. 2.50 and 23A-53 (Ord. No. 9967, §2, 7/1/04)

(Ord. No. 9075, §1, 6/15/98)

2.7.1.4 Secondary Land Uses. The following Land Use Classes are permitted within this zone as Secondary Land Uses, subject to the requirements of Sec. 3.2.4 and to any additional requirements listed with the (Ord. No. 8653, §1, 2/26/96)

All of the uses listed are subject to Performance Criteria, Sec. 3.5.5.

A. The following are permitted as Secondary Land Uses to the Land Use Classes permitted in the Wholesaling Use Group, Storage Use Group, and Industrial Use Group, limited to those products that are wholesaled, manufactured, or stored on the premises and further limited to twenty-five (25) percent of the total floor area but not to exceed twenty-five hundred (2,500) square feet.

1. Retail Trade Use Group, Sec. 6.3.10

a. Construction Material Sales, subject to: Sec. 3.5.5.1.H

b. Food and Beverage Sales, subject to: Sec. 3.5.5.1.H

c. General Merchandise Sales, subject to: Sec. 3.5.5.1.H

d. Heavy Equipment Sales, subject to: Sec. 3.5.5.1.H

B. The following is permitted as a Secondary Land Use to Food Service or Travelers' Accommodation, Lodging, subject to: Sec. 3.5.4.7.A and .B and Sec. 3.5.4.19.C.

1. Commercial Services Use Group, Sec. 6.3.5

a. Alcoholic Beverage Service

C. Hazardous Material Storage is permitted as a Secondary Land Use to a Permitted Land Use subject to: Sec. 3.5.10.2.A and .B.1.

D. Family Dwelling is permitted as a Secondary Land Use to a Permitted Land Use, subject to



## Sec. 3.5.7.7.

E. The following is permitted as a Secondary Land Use to all uses in the Commercial Service, Industrial, and Retail Trade Use Groups and to Educational Uses. (Ord. No. 9915, §6, 11/24/03)

## 1. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915, 11/24/03)

(Ord. No. 8864, §1, 4/28/97)

2.7.1.5 Accessory Land Uses. Land uses accessory to the Permitted or Secondary Land Uses are allowed subject to compliance with Sec. 3.2.5.

2.7.1.6 General Restrictions. The following restrictions apply to all land uses and development in this :

## A. Sec. 3.5.5.5.

B. On land uses in the Industrial Use Group, traffic circulation must be designed so that access to the site is from a major street or from a local street which is not an internal residential neighborhood street and which does not provide access to residentially zoned areas unless no alternative exists. (Ord. No. 9078, §1, 6/22/98)

**2.7.2 "I-1" LIGHT INDUSTRIAL ZONE.**

2.7.2.1 Purpose. This zone provides for industrial uses, that do not have offensive characteristics, in addition to land uses allowed in more restrictive nonresidential zones.

2.7.2.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quotes marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

## A. Industrial Use Group, Sec. 6.3.6

1. Craftwork "34", subject to: Sec. 3.5.5.1.B, .F, .G, and .H

2. General Manufacturing "34", subject to: Sec. 3.5.5.1.B, .F, .G, and .H

3. Motion Picture Industry "34", subject to: Sec. 3.5.5.1.A, .B, .E, .F, and .H and Sec. 3.5.5.4

4. Perishable Goods Manufacturing "33", subject to: Sec. 3.5.5.2.A and .B and Sec. 3.5.5.1.B, .E, .F, and .H

5. Precision Manufacturing "34", subject to: Sec. 3.5.5.1.B, .F, .G, and .H

6. Processing and Cleaning "34", subject to: Sec. 3.5.5.1.B, .F, .G, and .H

7. Salvaging and Recycling "34", subject to: Sec. 3.5.5.6.B and .D (Ord. No. 8653, §1, 2/26/99; Ord. No. 9915, §6, 11/24/03)

8. Salvaging and Recycling, limited to household goods donation center, "34", subject to: Sec. 3.5.5.6.B and .F; Sec. 3.5.13.3; and Sec. 3.5.13.4

(Ord. No. 8864, §1, 4/28/97; Ord. No. 9915, §6, 11/24/03; Ord. No. 10225, §1, 12/13/05)

B. Civic Use Group, Sec. 6.3.4

1. Civic Assembly "34"
2. Cultural Use "34"
3. Educational Use: Instructional School "34"
4. Educational Use: Postsecondary Institution "34"
5. Membership Organization "34"
6. Postal Service "34"
7. Religious Use "34"

C. Commercial Services Use Group, Sec. 6.3.5

1. Administrative and Professional Office "34"
2. Alcoholic Beverage Service "34", subject to: Sec. 3.5.4.19.C
3. Animal Service "34"
4. Automotive - Service and Repair "34"
5. Billboard "32", subject to: Sec. 3.5.4.26 and the Regulations of Chapter 3, Advertising and Outdoor Signs, of the Tucson Code (Ord. No. 8610, §1, 11/27/95)
6. Building and Grounds Maintenance "34"
7. Communications "34", subject to: Sec. 3.5.4.20.A or Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8813, §1, 3/3/97)
8. Construction Service "34"
9. Day Care "34"
10. Entertainment "34", subject to: Sec. 3.5.4.4.A, .B, .C, and .D and Sec. 3.5.4.19.C
11. Financial Service "34" subject to: Sec. 3.5.4.5.C (Ord. No. 10252, §1, 2/28/06)
12. Food Service "34", subject to: Sec. 3.5.4.6.C
13. Funeral Service "34"
14. Medical Service - Extended Health Care "34"
15. Medical Service - Major "34"
16. Medical Service - Outpatient "34", subject to: Sec. 3.5.4.8.B
17. Parking "34"
18. Personal Service "34"

- 19. Research and Product Development "34"
- 20. Technical Service "34"
- 21. Trade Service and Repair, Major, "34", subject to: Sec. 3.5.4.15
- 22. Trade Service and Repair, Minor, "34"
- 23. Transportation Service, Land Carrier, "34"
- 24. Travelers' Accommodation, Lodging, "34"

D. Recreation Use Group, Sec. 6.3.7

- 1. Golf Course "1"
- 2. Recreation "34"

E. Residential Use Group, Sec. 6.3.8

- 1. Residential Care Services: Shelter Care - victims of domestic violence "35", subject to: Sec. 3.5.7.8.A, .C.3, and .D
- 2. Residential Care Services: Rehabilitation Service or Shelter Care "35", subject to: 3.5.7.8.A, .C.4, .D, .E, and .F

F. Restricted Adult Activities Use Group, Sec. 6.3.9, subject to: Sec. 3.5.8.1

All activity, including the display of any retail items, is to occur within a completely enclosed building and is not to be visible from the exterior.

- 1. Adult Commercial Services "34"
- 2. Adult Industrial Uses "34"
- 3. Adult Recreation "34"
- 4. Adult Retail Trade "34"

G. Retail Trade Use Group, Sec. 6.3.10

- 1. Construction Material Sales "34"
- 2. Food and Beverage Sales "34"
- 3. General Merchandise Sales "34"
- 4. Heavy Equipment Sales "34", subject to: Sec. 3.5.9.3
- 5. Swap Meets and Auctions "34", subject to: Sec. 3.5.9.4 (limited to Auctions only)
- 6. Vehicle Rental and Sales "34", subject to: Sec. 3.5.9.5.A

H. Storage Use Group, Sec. 6.3.11

1. Commercial Storage "34", subject to: Sec. 3.5.10.1

2. Personal Storage "34", subject to: Sec. 3.5.10.3.C and .F (Ord. No. 9631, §1, 12/10)

I. Utilities Use Group, Sec. 6.3.12

1. Distribution System "34", subject to: Sec. 3.5.11.1.A, .B, and .D

J. Wholesaling Use Group, Sec. 6.3.13

1. Business Supply and Equipment Wholesaling "34"

2. Construction/Heavy Equipment Wholesaling "34"

3. Food and Beverage Wholesaling "34"

(Ord. No. 8722, §1, 6/24/96)

2.7.2.3 Special Exception Land Uses. The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

A. Residential Use Group, Sec. 6.3.8

1. Family Dwelling "34", subject to: Sec. 3.5.7.10 and approval through a Limited Notice Procedure, Sec. 23A-40 (Ord. No. 9967, §2, 7/1/04)

B. Commercial Services Use Group, Sec. 6.3.5

1. Alcoholic Beverage Service - Large Bar "36", subject to: Sec. 3.5.4.19.B and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3 (Ord. No. 9967, §2, 7/1/04)

2. Communications "36", subject to: Sec. 3.5.4.20.B, .C, and .E.1 or .E.2, or Sec. 3.5.4.20.B, .C, and .E.3, or Sec. 3.5.4.20.B, .C, and .F.2, or Sec. 3.5.4.20.B, .C, and .I (Ord. No. 8813, §1, 3/3/97; Ord. No. 9374, §1, 4/10/00)

3. Entertainment - Dance Hall "36", subject to: Sec. 3.5.4.19.B and approval through Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3 (Ord. No. 9967, §2, 7/1/04)

4. Food Service, limited to a soup kitchen, "34", subject to: Sec. 3.5.4.6.D and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3 (Ord. No. 9967, §2, 7/1/04)

5. Medical Service - Outpatient, limited to a blood donor center, "34", subject to: Sec. 3.5.4.8.C and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3 (Ord. No. 8722, §1, 6/24/96; Ord. No. 9967, §2, 7/1/04)

(Ord. No. 8813, §1, 3/3/97)

C. Retail Trade Use Group, Sec. 6.3.10

1. Swap Meets and Auctions "34", subject to: Sec. 3.5.9.4 and approval through Limited Notice Procedure, Sec. 23A-40 (Ord. No. 9967, §2, 7/1/04)

2. Food and Beverage Sales - Large Retail Establishment "34", subject to: Sec. 3.5.9, and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. : (Ord. No. 9293, §1, 9/27/99; Ord. No. 9967, §2, 7/1/04)

3. General Merchandise Sales - Large Retail Establishment "34", subject to: Sec. 3.5, and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. : (Ord. No. 9293, §1, 9/27/99; Ord. No. 9967, §2, 7/1/04)

D. Civic Use Group, Sec. 6.3.4

1. Correctional Use - Custodial Facility "34", subject to: Sec. 3.5.3.4.B.1, .3.a, .4.b, .4.c, .8, .9, and .10 and approval through a Zoning Examiner Legislative Procedure, Sec. 5 and Sec. 5.4.3 (Ord. No. 9967, §2, 7/1/04)

2. Correctional Use - Jail or Prison "34", subject to: Sec. 3.5.3.4.B.1, .3.e, .4.d, .5.c, .7, .8, .9, and .10 and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3 (Ord. No. 9967, §2, 7/1/04)

3. Educational Use: Elementary and Secondary Schools, limited to Grades 9 through 12, "34" subject to: Approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53 (Ord. No. 9075, §1, 6/15/98; Ord. No. 9967, §2, 7/1/04)

E. Industrial Use Group, Sec. 6.3.6

1. Perishable Goods Manufacturing "34", subject to: Sec. 3.5.5.1 and approval through Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53 (Ord. No. 9967, §2, 7/1/04)

(Ord. No. 9634, §2, 12/10/01)

2.7.2.4 Secondary Land Uses. The following Land Use Classes are permitted within this zone as Secondary Land Uses, subject to the requirements of Sec. 3.2.4 and to any additional requirements listed with the (Ord. No. 8653, §1, 2/26/96)

A. Family Dwelling is permitted as a Secondary Land Use to a Permitted Land Use, subject to Sec. 3.5.7.7.

B. Hazardous Material Storage is permitted as a Secondary Land Use to a Permitted Land Use subject to: Sec. 3.5.10.2.A and .B.4.

C. The following is permitted as a Secondary Land Use to all uses in the Commercial Service Industrial, and Retail Trade Use Groups to Educational Use, and to Religious Use. (Ord. No. 9915, §6, 11/24/03)

1. Industrial Use Group, Sec. 6.3.6

a. Salvaging and Recycling, subject to: Sec. 3.5.5.6.A and .C (Ord. No. 9915, 11/24/03)

(Ord. No. 8653, §1, 2/26/96)

D. The following is permitted as a Secondary Land Use to Alcoholic Beverage Service.

1. Industrial Use Group, Sec. 6.3.6

a. Perishable Goods Manufacturing, subject to: Sec. 3.5.5.2.F, .G, and .H

(Ord. No. 8653, §1, 2/26/96)

2.7.2.5 Accessory Land Uses. Land uses accessory to the Permitted or Secondary Land Uses are allow subject to compliance with Sec. 3.2.5.

2.7.2.6 General Restrictions. The following restrictions apply to all land uses and development in this

A. Sec. 3.5.5.5.

B. On land uses in the Industrial Use Group, traffic circulation must be designed so that access to the site is from a major street or from a local street which is not an internal residential neighborhood street and which does not provide access to residentially zoned areas unless no alternative exists. (Ord. No. 9078, §1, 6/22/98)

## 2.7.3 "I-2" HEAVY INDUSTRIAL ZONE.

2.7.3.1 Purpose. This zone provides for industrial uses that are generally nuisances, making them incompatible with most other land use. These nuisances may be in the form of air pollutants; excessive noise, traffic, glare, or vibration; noxious odors; the use of hazardous materials; or unsightly appearance.

2.7.3.2 Permitted Land Uses. The following Land Use Classes are principal Permitted Land Uses with this zone, subject to compliance with the development and compatibility criteria listed for the Development Designator indicated and to any additional conditions listed for each use. The number or letter in quote marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3.

A. Industrial Use Group, Sec. 6.3.6

1. Craftwork "35", subject to: Sec. 3.5.5.1
2. General Manufacturing "35", subject to: Sec. 3.5.5.1
3. Heavy Equipment Manufacturing "35", subject to: Sec. 3.5.5.1
4. Motion Picture Industry "35", subject to: Sec. 3.5.5.1
5. Perishable Goods Manufacturing "35", subject to: Sec. 3.5.5.1 and Sec. 3.5.5.2.A and .B (Ord. No. 8722, §1, 6/24/96)
6. Precision Manufacturing "35", subject to: Sec. 3.5.5.1
7. Processing and Cleaning "35", subject to: Sec. 3.5.5.1
8. Salvaging and Recycling "35", subject to: Sec. 3.5.5.6.B and .D (Ord. No. 8653, §1, 2/26/96; Ord. No. 9915, §6, 11/24/03)
9. Salvaging and Recycling, limited to household goods donation center, "35", subject to: Sec. 3.5.5.6.B and .F; Sec. 3.5.13.3; and Sec. 3.5.13.4

(Ord. No. 8582, §1, 9/25/95; Ord. No. 8722, §1, 6/24/96; Ord. No. 9915, §6, 11/24/03)

B. Commercial Services Use Group, Sec. 6.3.5

1. Administrative and Professional Office "35"
2. Automotive - Service and Repair "34" (Ord. No. 9138, §1, 10/5/98)

3. Billboard "32" subject to: Sec. 3.5.4.26 and the Regulations of Chapter 3. Advertis and Outdoor Signs, of the Tucson Code (Ord. No. 8610, §1, 11/27/95)

4. Building and Grounds Maintenance "35"

5. Communications "35", subject to: Sec. 3.5.4.20.A or Sec. 3.5.4.20.B, .C, and .D.1 or .D.2 (Ord. No. 8813, §1, 3/3/97)

6. Day Care "35"

7. Financial Service "35" subject to: Sec. 3.5.4.5.C (Ord. No. 10252, §1, 2/28/06)

8. Food Service "35"

9. Parking "35"

10. Research and Product Development "35"

11. Technical Service "35"

12. Trade Service and Repair, Major, "35", subject to: Sec. 3.5.4.15

13. Trade Service and Repair, Minor, "35"

14. Transportation Service, Land Carrier, "35"

15. Travelers' Accommodation, Lodging, "35"

(Ord. No. 8610, §1, 11/27/95; Ord. No. 8722, §1, 6/24/96; Ord. No. 9138, §1, 10/5/98)

#### C. Retail Trade Use Group, Sec. 6.3.10

1. Construction Material Sales "35"

2. General Merchandise Sales "35"

3. Heavy Equipment Sales "35", subject to: Sec. 3.5.9.3

4. Swap Meets and Auctions "35", subject to: Sec. 3.5.9.4

5. Vehicle Rental and Sales "35", subject to: Sec. 3.5.9.5.A (Ord. No. 8653, §1, 2/26/

(Ord. No. 8722, §1, 6/24/96)

#### D. Storage Use Group, Sec. 6.3.11

1. Commercial Storage "35"

2. Personal Storage "35", subject to: Sec. 3.5.10.3.C and .F (Ord. No. 9631, §1, 12/10

(Ord. No. 8722, §1, 6/24/96)

#### E. Utilities Use Group, Sec. 6.3.12

1. Distribution System "35"

(Ord. No. 8722, §1, 6/24/96)

F. Wholesaling Use Group, Sec. 6.3.13

1. Business Supply and Equipment Wholesaling "35"

2. Construction/Heavy Equipment Wholesaling "35"

3. Food and Beverage Wholesaling "35"

(Ord. No. 8722, §1, 6/24/96)

G. Any Land Use Class not allowed as a Permitted Land Use or a Special Exception Land Use in any other zone or as a Special Exception Land Use within the I-2 zone, provided the Development Designator used is the one listed below for the respective use group.

1. Agricultural Use Group, Sec. 6.3.3, "30"

2. Civic Use Group, Sec. 6.3.4, "34"

3. Commercial Services Use Group, Sec. 6.3.5, "30"

4. Industrial Use Group, Sec. 6.3.6, "35", subject to: Sec. 3.5.5.1

5. Recreation Use Group, Sec. 6.3.7, "35"

6. Restricted Adult Activities Use Group, Sec. 6.3.9, "30"

7. Retail Trade Use Group, Sec. 6.3.10, "30"

8. Storage Use Group, Sec. 6.3.11, "35"

9. Utilities Use Group, Sec. 6.3.12, "35"

10. Wholesaling Use Group, Sec. 6.3.13, "35"

(Ord. No. 8722, §1, 6/24/96)

**Editor's Note:** Sec. 2.7.3.2.B was repealed by Ord. No. 8722, §1, adopted by Mayor and Council on July 24, 1996. As a result of this revision, the remaining Land Use Groups and Classes within this Section are realphabetized and renumbered for consistency with the remainder of the Code.

**2.7.3.3 Special Exception Land Uses.** The following Land Use Classes are not permitted within this zone unless approved through the special approval procedure noted for the Land Use Class, and are subject to any additional conditions listed. The number or letter in quotation marks following the Land Use Class refers to the Development Designator provisions of Sec. 3.2.3. For further information concerning Special Exception Land Use applicability, refer to Sec. 5.3.9. (Ord. No. 8653, §1, 2/26/96)

A. Agricultural Use Group, Sec. 6.3.3

1. Stockyard Operation "35", subject to: Approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3 (Ord. No. 9967, §2, 7/1/04)

(Ord. No. 8722, §1, 6/24/96)



(Ord. No. 8722, §1, 6/24/96; Ord. No. 9239, §1, 6/14/99; Ord. No. 9967, §2, 7/1/04)

5. Transportation Service, Air Carrier, "35", subject to: Approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3 (Ord. No. 8722, §1, 6/24/9 Ord. No. 9967, §2, 7/1/04)

(Ord. No. 8722, §1, 6/24/96; Ord. No. 8813, §1, 3/3/97)

All of the uses listed below must be at least three hundred (300) feet from any nonindustrial *z* except where the use of the nonindustrial<sup>z</sup> property is railroad or freeway right-of-way are subject to any other conditions listed for the use.

5. Refining "35", subject to: Sec. 3.5.5.1 and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3.

6. Salvaging and Recycling "35", subject to: Sec. 3.5.5.1 and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3 (Ord. No. 9915, §6, 11/24/95)

(Ord. No. 8582, §1, 9/25/95; Ord. No. 8722, §1, 6/24/96; Ord. No. 9967, §2, 7/1/04)

E. Residential Use Group, Sec. 6.3.8

1. Residential Care Services: Rehabilitation Service or Shelter Care "35", subject to: 3.5.7.8.A, .C.4, .D, and .E and approval through a Zoning Examiner Full Notice Procedure, Sec. 23A-50 and 23A-53

(Ord. No. 8722, §1, 6/24/96; Ord. No. 9967, §2, 7/1/04)

F. Storage Use Group, Sec. 6.3.11

1. Hazardous Material Storage "35", subject to: Approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3

(Ord. No. 8722, §1, 6/24/96; Ord. No. 9967, §2, 7/1/04)

G. Utilities Use Group, Sec. 6.3.12

All of the uses listed below must be at least three hundred (300) feet from any nonindustrial zone except where the use of the nonindustrially zoned property is railroad or freeway right-of-way are subject to any other conditions listed for the use.

1. Sanitation System "35", subject to: Sec. 3.5.5.1 and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3

(Ord. No. 8582, §1, 9/25/95; Ord. No. 8722, §1, 6/24/96; Ord. No. 9967, §2, 7/1/04)

H. Wholesaling Use Group, Sec. 6.3.13

1. Hazardous Material Wholesaling "35", subject to: Approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3

(Ord. No. 8722, §1, 6/24/96; Ord. No. 9967, §2, 7/1/04)

**Editor's Note:** Sec. 2.7.3.3.F, .G, and .H, as added by Ord. No. 8722, §1, was adopted by Mayor and Council on June 24, 1996. As a result of these additions, these subsections and the remaining Land Use Groups and Classes within this Section were realphabetized and renumbered for consistency with the remainder of the Code.

I. Retail Trade Use Group, Sec. 6.3.10

1. General Merchandise Sales - Large Retail Establishment "35", subject to: Sec. 3.5, and approval through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3

(Ord. No. 9293, §1, 9/27/99; Ord. No. 9967, §2, 7/1/04)

**2.7.3.4 Secondary Land Uses.** The following Land Use Classes are permitted within this zone as Secondary Land Uses, subject to the requirements of Sec. 3.2.4 and to any additional requirements listed with the (Ord. No. 8653, §1, 2/26/96)



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## TOP STORY

SATURDAY, DECEMBER 09, 2006

# Anti-sex-offender zoning laws challenged

By Kavan Peterson, Stateline.org Staff Writer

A major push to crack down on sex offenders in recent years may be backfiring in states where progressively strict housing rules are coming under court challenge and making it harder for law enforcement to track those convicted of rape, child molesting and similar crimes.

Laws in at least a half dozen states, including California, Georgia and Iowa, barring sex offenders from living near schools and parks are being challenged by ex-offenders who claim the laws unconstitutionally penalize them after they have served their time. Such laws also are raising alarms among law enforcers, who fear sexual predators will be harder to track because they have no place to live.

Slapping restrictions on where sex offenders can live became widely popular after the highly publicized 2005 murder of 9-year-old Florida resident Jessica Lunsford allegedly by a convicted sex offender who had moved into the neighborhood. Sixteen states and more than 400 cities nationwide have since adopted so-called "Jessica's Laws," joining six other states that restricted where registered sex offenders can live prior to 2005.

But the trend may be slowing down.

Lawmakers in Kansas last month decided against adopting strict residency restrictions reviewing evidence that neighboring Iowa's zoning law had doubled the number of offenders unaccounted for since the law took effect in 2005. Iowa prosecutors and enforcement officials are pushing the state Legislature to repeal the statute, which is illegal for sex offenders to live within 2,000 feet of schools or child-care centers.

"State lawmakers are wrestling with whether they've gone too far (restricting where offenders can live). But the difficulty is they're afraid if they do anything to roll back the laws, they'll get voted out of office," said Randall Wilson, legal director of the Iowa American Civil Liberties Union, which unsuccessfully sued to overturn Iowa's offender residency rules in federal court.

## SIDEBAR

### 22 states restrict sex offenders live

- Alabama
- Arkansas
- California
- Florida
- Georgia
- Illinois
- Iowa
- Kentucky
- Indiana
- Louisiana
- Missouri
- Minnesota
- New Mexico
- Michigan
- Ohio
- Oklahoma
- Oregon
- South Dakota
- Tennessee
- Texas
- Washington
- West Virginia

Source: California F

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09/04/2007  
**Fred Thompson's Online Campaign Is in Full Swing**

08/30/2007  
**Black Enthusiasm for Clinton and Obama Leaves Little Room for Edwards**

Whether it's constitutional to effectively banish sex offenders from communities determined. Iowa's law, considered one of the toughest in the nation, was upheld U.S. Circuit Court of Appeals but is being challenged in state courts.

A federal judge is to hear a challenge in February to California's law, adopted in November, which prohibits registered sex offenders from living within 2,000 feet of parks. Approved by 70 percent of voters, the law would make it impossible for sex offenders to live in most of Los Angeles, San Francisco and other cities.

Challenges against sex-offender residential restrictions in Illinois, Minnesota and Georgia are pending in state courts. Restrictions enacted by Georgia in July face a federal lawsuit. The Georgia plaintiffs, including an elderly man with Alzheimer's disease living in hospice who cannot walk and a woman convicted of having consensual sex with a 15-year-old boy when she was 17, claim they pose no further threat to society.

Several sheriffs' departments in Georgia announced in October they would refuse to enforce portions of the law that would require evicting elderly or disabled individuals from their homes or hospices.

"Forcing a terminally ill man with less than six months to live out of his hospice-care facility because he resides within 1,000 feet of a church is irrational and does nothing to promote child safety," Sarah Geraghty, an attorney for the Atlanta-based Southern Center for Human Rights representing the plaintiffs, said in a statement.

Texas in 2001 was the first state to establish "child safety zones" restricting where sex offenders can live. Many locally adopted ordinances exceed the state standards. Minnesota, for example, passed an ordinance barring all sex offenders classified as high risk from living within the city limits. In New Jersey, which has no statewide residency rules, many have set restrictions that make it nearly impossible for sex offenders to live with their families.

"The proliferation of these types of restrictions is making it more difficult for communities to fulfill their mandate of helping offenders make a successful reentry into society," Olney, a research associate for the Center for Sex Offender Management, an affiliate of the U.S. Justice Department.

Olney and other experts also question how effective the laws are at protecting children because strangers are responsible for only about 10 percent of sexual attacks on children. Although incidents of strangers kidnapping and sexually assaulting a child often make headlines, the Justice Department estimates just over 100 of the 60,000 to 70,000 sexual assault cases filed each year involved an abduction by a stranger.

"People are very, very fearful of strangers being near their children, and most of the time the fear is based on a knee-jerk reaction to that fear," Olney said.

*Send your comments on this story to [letters@stateline.org](mailto:letters@stateline.org). Selected reader feedback will be posted in the Letters to the editor section.*

Contact Kavan Peterson at [kpeterson@stateline.org](mailto:kpeterson@stateline.org).

**ISSUES AND TOPICS ■■■**

# Laws that track sex offenders draw criticism

## HUMAN RIGHTS:

Sometimes political zeal can go too far.

By ANGELA ROZAS  
Chicago Tribune

CHICAGO — State and federal laws intended to monitor released sex offenders and protect the public actually "may cause more harm than good," a study by Human Rights Watch released Wednesday contends.

Laws restricting where such sex offenders can live and requiring widespread public notification of their past crimes have not been shown to reduce the number of new sex crimes, the report says, but rather cause these individuals to be shunned and may drive them underground.

"There's no evidence these laws actually work and they may be making things worse," said Sarah Tofte of Human Rights Watch and the author of the report. "These laws are making it significantly impossible for former offenders to re-enter the community."

The rights organization's report, titled "No Easy Answers," says that in recent decades, misinformation and political zeal have contributed to overly broad laws that put the names of convicted sex offenders on publicly accessed Web sites and restrict where they can live, regardless of the severity of the crime or the fact that most will not re-offend. The report says no studies have definitively shown links between community notification of the presence of convicted sex of-

fenders and a reduction in sex offenses.

But advocates for victims of sexual abuse say no study can show how some crimes may not have been committed.

"You can't prove a negative," said Laura Ahearn, executive director of Parents for Megan's Law and the Crime Victims Center.

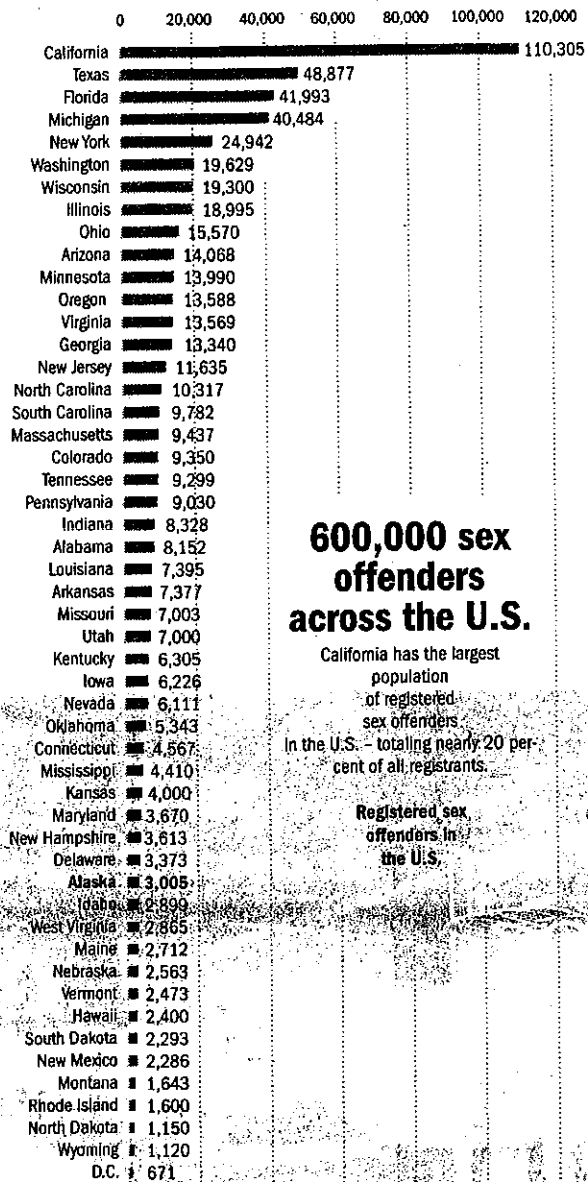
The report says U.S. laws governing sex offenders are some of the most restrictive in the world. No other country governs where sex offenders can live, and six have laws requiring registration of offenders, but only with police.

The study is the most comprehensive review to date of U.S. sex offender laws and focuses attention on possible negative effects on convicted sex offenders. Researchers conducted 200 interviews with sex offenders, experts, law enforcement and victims. The study details abuses to which some sex offenders have been subjected, from ostracism to murder. The laws also make it difficult for offenders to get and keep jobs.

Supporters of the laws say they are not intended to harass offenders but to help the community be informed of potential risks. Extreme vigilante cases are rare, they say.

"They're making public safety and the protection of children and our most vulnerable population a priority," Ahearn said. "If they're not happy with it they shouldn't commit the sex crime in the first place."

Still, she said, states should



## 600,000 sex offenders across the U.S.

California has the largest population of registered sex offenders in the U.S. — totaling nearly 20 percent of all registrants.

Registered sex offenders in the U.S.

Source: National Center for Missing & Exploited Children

The Associated Press

be focusing more on giving resources to probation and parole law enforcement to better monitor individual offenders.

One of the most controversial criticisms in the report challenges a widely held belief that sex offenders have high recidivism rates. While statistics on whether sex offenders will re-offend have varied over the years, the report pointed to

a Justice Department study in 2003 that showed only 5.3 percent of all sex offenders re-offend within three years, and another study showing 24 percent of the most violent re-offend over 15 years.

The report also says that as sex offender registries continue to grow, law enforcement and the community will struggle to make sense of them.

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# Diabetes-drug use in autism questioned because of risks

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**“The Lynchpin To Parole Reform: A Case Study of Two Parolee Housing Proposals in  
Redlands, California”**

**Benjamin Singerman  
Professor Joan Petersilia  
California Prison Reform  
Fall 2005**

## **PART I: THE ISSUE OF PAROLEE HOUSING**

### **1. Parolee Housing Should Be Supportive, Secure, and Efficient**

The challenge of designing supportive, secure, and efficient housing for recently released parolees is the key to effectively reforming California's parole system. Parolees require supportive parolee housing so that they will not re-offend, and can successfully reintegrate into their communities. Communities require secure parolee housing, so that those who live near parolees will not suffer from increased crime and devaluation of their properties. State and local governments require efficient parolee housing so that they can easily and affordably keep track of parolees' whereabouts. Parolee housing has been called the "lynchpin that holds the reintegration process together."<sup>1</sup> If all three needs – support, security, and efficiency – can be met, many of the problems that have recently plagued California's parole system will be significantly reduced.

### **2. California's Parole System: A Billion Dollar Failure**

In recent years, the California parole system has come under a great deal of criticism for its failings. In November 2003, the government's watchdog Little Hoover Commission labeled California's parole system a "billion-dollar failure."<sup>2</sup> According to the Commission, the goals of parole are not being realized.<sup>3</sup>

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<sup>1</sup> JEREMY TRAVIS, *BUT THEY ALL COME BACK: FACING THE CHALLENGES OF PRISONER REENTRY* 219 (2005) (quoting Katherine H. Bradley, Noel C. Richardson, R. B. Michael Oliver, and Elspeth M. Slayter, "No Place Like Home: Housing and the Ex-Prisoner" Policy Brief. Boston: Community Resources for Justice. (2001)).

<sup>2</sup> LITTLE HOOVER COMMISSION, *BACK TO THE COMMUNITY: SAFE AND SOUND PAROLE POLICIES*. 1 <http://www.lhc.ca.gov/lhcdir/172/execsum172.pdf>. (2003).

<sup>3</sup> *Id.*, at 56.



California's parole system is not secure, which jeopardizes public safety. For example, in 2000, California Department of Corrections lost track of about 25% of the 117,000 parolees under its supervision, compared to a national average abscondence rate of only 9%.<sup>4</sup>

California's recidivism rate is also far above the national average: In California, 67% of prison commitments are returning parolees, compared to 35% nationally.<sup>5</sup> Only 21% of California parolees successfully complete parole, compared to 42% nationally.<sup>6</sup> Last year, California prisons held 165,000 inmates, of whom 58,725 were paroled felons who were re-incarcerated for violating parole.<sup>7</sup> These statistics suggest that California's current parole system does not offer parolees the support they need to reintegrate successfully into their communities.

Nor is California's current parole system efficient. California spends about \$900 million a year on parolees who violate their parole and are sent back to prison, nearly one fifth of the \$5 billion spent annually on the entire California prison system.<sup>8</sup> If recidivism and re-incarceration could be reduced by implementing high-quality parole supervision, the state would realize substantial savings even if the cost of supervising each parolee went up.

Shortly after the Little Hoover Commission report was released, Governor Schwarzenegger signed an agreement on his first day in office to reform the California

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<sup>4</sup> Id.

<sup>5</sup> Id., at i.

<sup>6</sup> Little Hoover Commission, "Commission Urges Parole Reforms," press release, (Nov. 13, 2003).

<sup>7</sup> Mark Martin, *California's System For Parolees Called Ineffective Revolving Door*, San Francisco Chronicle, Sep 10, 2005

<sup>8</sup> Id.

parole system.<sup>9</sup> The agreement settled a class action lawsuit over how California treats its parole violators.<sup>10</sup> However, progress thus far has been fitful. In April 2005, the state ended three programs under the settlement that diverted parole violators to halfway houses, drug treatment, or electronic monitoring instead of returning them to prison; the program was considered ineffective because it focused on parole violators instead of recently released parolees who had not re-offended.<sup>11</sup> Additionally, California's budget crisis forced the governor to propose a state budget that cut \$95 million from inmate and parolee rehabilitation programs.<sup>12</sup> This is unfortunate, because high-quality parole supervision that effectively reduces recidivism is expensive in the short-term, even though it ultimately saves money through lower re-incarceration rates.

### 3. Why Housing Matters So Much

An essential ingredient to solving the challenges faced by the California parole system is to find all parolees supportive, secure, and efficient housing. When they are released from prison, about 97% of California inmates are placed on supervised parole.<sup>13</sup> Upon their release, they are each given \$200 and a ride to the nearest bus stop.<sup>14</sup> Their most immediate concern upon release is finding shelter.<sup>15</sup>

Most California prisoners are released without the benefit of a "step down" process to help them successfully transition back into their communities.<sup>16</sup> This is

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<sup>9</sup> Dan Thompson, *No Contempt, But Judge Scolds Officials For Parole Programs*, San Diego Union-Tribune, May 12, 2005.

<sup>10</sup> Judy Campbell, *Parole Reform in Court*, The California Report, May 12, 2005.

<sup>11</sup> *Id.*

<sup>12</sup> *Cop-Out On Parole Reform*, Los Angeles Times, Editorial, May 4, 2005.

<sup>13</sup> Martin, *supra*, note 7.

<sup>14</sup> *Id.*

<sup>15</sup> See TRAVIS, *supra*, note 1.

<sup>16</sup> LITTLE HOOVER, *supra*, note 2, at 57.

unfortunate, because “[p]risoners should ideally make the transition from prison to the community in a gradual, closely supervised process.”<sup>17</sup>

More specifically, to be effective, the supervision of parolees must be structured, be intensive, maintain firm accountability for program participation, and connect the offenders with pro-social networks and activities.<sup>18</sup> This allows them to reintegrate with their personal relationships, employment, and home communities in manageable steps, and allows the authorities the chance to test the parolees’ progress.<sup>19</sup> A comprehensive RAND study of 9 programs in 14 states found that when parolees and probationers had at least two contacts a week with their probation or parole officers and participated in pro-social activities such as education, work, or community service, their recidivism rates dropped as much as 10 to 20% compared to other offenders.<sup>20</sup>

“I was lucky because I had a house, a supportive family, and a job waiting for me when I got out of prison,” Tim O’Hearn, a parolee told me in an interview. “Most guys don’t have that, which is why they fall back into the same old lifestyle and get into trouble again. Getting them into programs is the only way to give them the kind of support and structure that helped me succeed.”

Instead, most California parolees are on their own when trying to find housing upon release. Without a stable residence, parolees cannot reintegrate effectively into their communities. “Continuity in substance abuse and mental health treatment is

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<sup>17</sup> JOAN PETERSILIA, WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY 98 (2003)

<sup>18</sup> TRAVIS, *supra*, note 1, at 110 (discussing and quoting Joan Petersilia, *A Decade of Experimenting with Intermediate Sanctions: What Have We Learned?*” FEDERAL PROBATION 62(2): 3-9

<sup>19</sup> *Id.*

<sup>20</sup> TRAVIS, *supra*, note 1, at 109-110.

compromised. Employment is often contingent upon a fixed living arrangement. And, in the end, a polity that does not concern itself with the housing needs of returning prisoners finds that it has done so at the expense of its own public safety.”<sup>21</sup>

#### **4. The Main Difficulties Parolees Face In Obtaining Housing**

Parolees’ housing options are frequently limited. State prisoners are often imprisoned far from the home communities to which they return, and have no opportunity to secure housing prior to their release.<sup>22</sup> Most prisoners return to live with their families, but this can present difficulties.<sup>23</sup> “Family dynamics surrounding prisoner reentry can be very complicated,” and families may not always provide the necessary support and stability that parolees need to keep themselves out of trouble.<sup>24</sup> In addition to any emotional issues presented by family dynamics, parole conditions legally forbid parolees from living or associating with anyone involved with criminal activity, including family and friends.

High housing prices in many parts of California have made the private housing market cost prohibitive for most parolees, who tend to be poor.<sup>25</sup> Most parolees don’t have enough money for a security deposit for a private rental. Furthermore, landlords are often reluctant to rent to parolees.

Many parolees also have trouble finding public housing. Federal policy prohibits drug offenders from living in public housing and receiving food stamps.<sup>26</sup> In selecting families for admission to public housing, the Public Housing Authority may consider the

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<sup>21</sup> Petersilia, *supra*, note 16, at 121 (quoting Bradley, et al., *supra*, note 1)

<sup>22</sup> *Id.*

<sup>23</sup> TRAVIS, *supra*, note 1, at 220.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*, at 223.

<sup>26</sup> LITTLE HOOVER, *supra*, note 2, at 57.

criminal history of the applicant.<sup>27</sup> Furthermore, high demand for public housing has led to long waiting lists for admission: in Oakland, California, the average wait is 6 years. Parolees cannot wait that long to receive support: recidivism data shows that 30% of re-offenders are arrested within six months of release, and that after five years without an arrest, recidivism is very low.<sup>28</sup>

With no other options available, many parolees become homeless. California Department of Corrections officials estimate that 10% of the state's parolees are homeless. In large urban areas like San Francisco and Los Angeles, as many as 50% of parolees are estimated to be homeless.<sup>29</sup>

### 5. Community Opposition To Parolee Housing

Communities frequently oppose the placement of parolee group homes in their neighborhoods. This reflects their understandable concerns about the high recidivism rates of offenders: they fear parolee behavioral problems, rising neighborhood crime, increased comings and goings of non-related parties, and devaluation of their properties. Upon further consideration, this opposition is irrational. In most instances, “these criminals are returning to their community in any event. Giving them a place to live and structured assistance at release can provide residents with *more* security than if the inmate were simply on the streets.”<sup>30</sup>

Nevertheless, a growing number of California communities have passed local ordinances restricting parolee housing. In Lancaster, in Los Angeles County, city officials designated a 20-block area of north downtown a “drug-free zone.” The plan’s goal is to

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<sup>27</sup> TRAVIS, *supra*, note 1, at 229.

<sup>28</sup> PETERSILLIA, *supra*, note 16, at 18.

<sup>29</sup> *Id.*, at 122.

<sup>30</sup> *Id.*, at 100.

keep parolees and probationers out of the zone as a condition of their parole or probation. The law also makes it a criminal offense for anyone on parole or probation to rent or own property in the area.<sup>31</sup>

Three years ago, Fontana enacted an ordinance that required any group operating a non-state-licensed home with two or more parolees to acquire a conditional use permit from the city.<sup>32</sup> At the time, some homeowners were renting up to 12 beds to parolees in residential areas. Since the ordinance was passed, no non-state-licensed parolee homes have applied to move into Fontana.<sup>33</sup>

The city of Yucaipa recently adopted a moratorium on non-state-licensed parolee homes and is considering a provision similar to the one adopted by Fontana. It would require permits from anyone operating a home with two or more parolees. Bart Gray, captain of the sheriff's Yucaipa station, told the San Bernardino County Sun that the provision would ensure the safety of residents and keep crime rates down because it would let police know where parolees are living.<sup>34</sup>

However, law enforcement agencies already know the location of parolees.<sup>35</sup> The law is actually likely to have the opposite effect. If it reduces the availability of parolee housing, more parolees are likely to abscond, or become homeless. Then the police will be less likely to know where the parolees are living.

## **6. Poor Coordination Between State and Local Government**

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<sup>31</sup> TRAVIS, *supra*, note 1, at 224.

<sup>32</sup> Fontana Ordinance No. 1385, adopted Nov. 19, 2002.

<sup>33</sup> Stacia Glenn, *Yucaipa Eyes Parolees*, San Bernardino County Sun, Aug 14 2005.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

Due to budgetary constraints, California has in the past had trouble expanding, developing, and managing pre-release planning with community parole services.<sup>36</sup> In 2003, there were only approximately 900 re-entry prison slots and a small number of substance abuse treatment slots available for prisoners to be released using the ideal, “step down” transition process.<sup>37</sup> According to the Little Hoover Commission report, most communities already have a wide range of services that could serve parolees but often do not due to poor coordination or community opposition.<sup>38</sup>

There are several types of parolee group homes under California law. Despite the ordinances passed by Fontana and Yucaipa, California cities share power with the state government under California law to regulate the various types of parolee group homes, and cannot necessarily prevent the state from establishing any parolee group homes at all.

The cities do have the power to effectively prevent the state from establishing “large” parolee group homes within their city limits. “Large” residential care facilities are defined as those with seven or more parolee residents or beds. Large parolee group homes are licensed by the State of California, but are also subject to regulation by city governments, which may impose restrictions such as special permit requirements.<sup>39</sup>

Although cities must follow state-mandated procedures in considering the zoning and placement decisions of these large facilities, they have been effectively able to block construction of new large residential care facilities in their communities by citing various concerns including public opposition due to noise, public safety concerns, and questions

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<sup>36</sup> LITTLE HOOVER, *supra*, note 2, at 57.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Redlands City Council Meeting, Sept 20, 2005, Agenda Item J-1, Request For Council Action on proposed Ordinance 2622, p. 3.

about the ability to properly control residents of the facilities. Indeed, even though the State of California currently has set aside funds for building more parolee re-entry centers, and has issued a Request for Proposals for their construction, communities have been unwilling to offer sites for such large facilities, fearing community backlash against housing parolees together in residential areas.

Currently, the State Department of Corrections and Rehabilitation operates just 19 re-entry facilities and 2 restitution facilities for all 58 counties of California.<sup>40</sup> In San Bernadino County, for example, no communities have been willing to accept a large parolee group home, and no such homes are currently in operation there.<sup>41</sup>

In the face of this opposition to large residential care facilities, the State has increasingly relied on small parolee group housing as places to house parolees. These small group homes consist of six or fewer persons or beds. A city has no ability to regulate small group homes that are licensed by the State of California. It cannot force state-licensed small group homes to request a city permit, nor can it subject the placement of such homes to the same strict notification and public hearing requirements that apply to large group homes.

Nevertheless, many parolee group homes are not licensed by the state. Because of the informal nature of these homes, it is difficult to quantify statewide exactly how many parolees choose to live with other parolees in an unlicensed, unregulated arrangement. One example of a type of unlicensed parolee group home is a so-called “sober living home.” In a sober living home, six or fewer parolees live together and agree not to use

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<sup>40</sup> California Department of Corrections, [www.corr.ca.gov](http://www.corr.ca.gov)

<sup>41</sup> Oral communication by Jeffrey Gazer, California Department of Corrections, Parole Division, San Bernadino Unit; Redlands City Council Meeting; September 20, 2005.



drugs or alcohol as a condition to continue living in the home. A sober living home is a non-licensed cooperative living arrangement. It is not a residential care facility under the law, is not required or eligible to be licensed by the state, and is not subject to state Department of Alcohol and Drug Program oversight or regulatory requirements.

Brandy Pitt, the house manager for a sober living home in Redlands, California, described the sober living homes as currently “self-run, self-help facilities.” Because they are not licensed, they do not have to hire professional staff, or meet state or city requirements beyond the strong restrictions already placed on the residents by virtue of their status as parolees.<sup>42</sup>

Despite their unregulated status, Pitt feels the homes are important and effective in giving structure and discipline to parolees with substance abuse problems. She said, “If you shut down sober living homes, instead of being tested and reporting to their parole officers if parolees start using again, no one will report them and they’ll be stealing your mail and the stereo from your car so they can support their habit.”<sup>43</sup>

The recent ordinances passed by Fontana and Yucaipa are designed to restrict or prohibit parolee group homes which are not licensed by the state, such as the sober living facilities described above. It is unclear under federal and state law whether local and city governments have the power to regulate and prohibit even these unlicensed parolee group homes, or whether such power is reserved to the state. Whether the recent ordinances passed by Fontana and Yucaipa are legally and constitutionally permissible is an issue that may ultimately be decided by the courts. In the meantime, other cities in the Inland

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<sup>42</sup> Oral communication by Brandy Pitt, Redlands City Council Meeting; September 20, 2005.

<sup>43</sup> Id.

Empire and Central Valley – such as Redlands, Victorville, Apple Valley, Adelanto, and Hesperia – are considering similar ordinances.<sup>44</sup>

By failing to consistently or adequately provide transitional housing and other “step down” services to released prisoners, and by failing to coordinate such services with local and city governments, the State has created the chaotic present system: a billion dollar failure. Parolees do not receive the housing and services they need to succeed, so they re-offend in high numbers. The State cannot keep track of its parolees, and the high recidivism rate makes communities fearful to allow parolees into their neighborhoods. Because of the State’s failure to coordinate prison release and parolee services with local governments, some cities are now passing or considering their own piece-meal, counter-productive, and possibly unconstitutional legislation restricting parolee houses.

## **PART II: REDLANDS CASE STUDY**

### **7. Two Proposals, Two Paths**

On September 21, 2005, the city of Redlands passed a 45 day ban on new group homes for parolees. The moratorium forbids housing two or more unrelated parolees in a home not licensed by the state. The city is simultaneously considering two separate proposals for a long term solution to the problem of parolee housing. The first proposal is to adopt an ordinance like Fontana’s, requiring city licenses for parolee homes that are not licensed by the state. The second proposal is for Redlands to work with the state

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<sup>44</sup> Leroy Standish, *High Desert Home To 2,384 Parolees*, Victorville Daily Press, Nov. 6, 2005.

government to construct its own city-operated parolee housing facility, to be run by the Redlands police department.

These two proposals are notable because they represent two very different possible approaches that local communities can take as they consider how to deal with the issue of parolee housing. The first Redlands proposal, modeled on the Fontana ordinance, would impose fees on both established and new parolee homes not licensed by the state, and require them to obtain conditional use permits from the city of Redlands. The ordinance seems implicitly designed to effectively prohibit such non-licensed parolee group homes within the city. In Fontana, no new parolee group homes not licensed by the state have been established since the ordinance was passed. According to Casandra Haramcio, who runs a facility for recovering addicts in Redlands, “I barely make my operating costs. This ordinance would shut me down.”<sup>45</sup>

Brandy Pitt said of this proposed ordinance, “Even though you say you aren’t shutting down the sober living homes, really you are, because they can’t afford to pay for the permits.”<sup>46</sup> This may be a popular political move in the short-run, but it does little to address the long-term need to design supportive, secure, and efficient parolee housing that reduces recidivism, abscondance, and threats to public safety.

The second Redlands proposal, by contrast, offers the possibility of a revitalized state-local partnership to tackle the issue of parolee housing. When asked about the problems that California faces in housing its parolees, Jeanne Woodford, the Undersecretary of California Department of Corrections and Rehabilitation, said that

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<sup>45</sup> Oral communication by Casandra Haramcio, Redlands City Council Meeting; September 20, 2005.

<sup>46</sup> Supra, note 41.

“reaching out to communities is the best way to make re-entry programming more effective and to reduce recidivism.”<sup>47</sup>

## 8. An Overview of Redlands

An analysis of Redlands, California suggests why two such distinct proposals for parolee housing might both be under consideration there. Redlands is one of the communities in the Inland Empire of San Bernadino County that have been considering or adopting severe restrictions on parolee housing, but Redlands is also in some ways distinct from its neighbors in ways that might help explain why it is also considering a progressive solution in the proposed city-run parolee housing facility.

Redlands, California is a city of about 70,000 people, located 70 miles east of Los Angeles in San Bernadino County.<sup>48</sup> One of the oldest cities of the so-called “Inland Empire” region east of Los Angeles, it was established in the late 19<sup>th</sup> century as a packing center and distribution hub for that region’s then-growing citrus industry.<sup>49</sup> In 2003, there were about 24,000 households in Redlands. The city is about 74% white; 4% African American or black; 5% Asian; and 24% Hispanic or Latino, including Hispanics of any race.<sup>50</sup> Statewide, Californians are about 60% white, 7% black, 11% Asian, and

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<sup>47</sup> Personal communication, November 9, 2005.

<sup>48</sup> <http://quickfacts.census.gov/qfd/states/06/0659962.html>

<sup>49</sup> ENCYCLOPEDIA BRITANNICA, *Redlands* (DVD ed. 2003)

<sup>50</sup> TRAVIS, *supra*, note 1, at 224.

<sup>50</sup> Fontana Ordinance No. 1385, adopted Nov. 19, 2002.

<sup>50</sup> Stacia Glenn, *Yucaipa Eyes Parolees*, San Bernardino County Sun, Aug 14 2005.

<sup>50</sup> *Id.*

<sup>50</sup> *Id.*

<sup>50</sup> LITTLE HOOVER, *supra*, note 2, at 57.

<sup>50</sup> *Id.*

<sup>50</sup> *Id.*

32% Hispanic. About 10.5% of Redlands residents were below the poverty line in 1999, compared to 14.2% statewide. In 2000, the median value of an owner-occupied housing unit in Redlands was \$159,300, compared to \$211,500 for the state as a whole. Redlands is thus less racially diverse, less poor, and cheaper to own a home in than California on average.<sup>51</sup>

In the Inland Empire around Redlands, development and population growth in the last several decades have caused significant demographic shifts.<sup>52</sup> The region between Los Angeles and the old Inland Empire cities like Redlands and Riverside was a comparatively open and rural boundary between the regions until the 1970s. Since then, the region has been built up into new communities— with citrus groves and horse pastures becoming strip malls and chain restaurants — until no clear boundary remains.<sup>53</sup>

Because of high housing prices in established cities like Los Angeles and San Diego, middle- and working- class people have migrated from those areas to the Inland empire. San Bernadino's population grew 20.5% between 1990 and 2000, compared to 13.6% growth in California as a whole.<sup>54</sup> Between 1990 and 2000, the Inland Empire's white population increased only 7%, while the number of blacks grew 61%, Asians 62%,

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<sup>50</sup> Personal email communication from Dan McHugh, city attorney of Redlands. Also, see Redlands City Council Agenda Item No. J-1, September 20, 2005, Request For Council Action, 2-3.

<sup>50</sup> <http://quickfacts.census.gov/qfd/states/06/0659962.html>

<sup>51</sup> Id.

<sup>52</sup> David Holthouse, *Southern Poverty Law Center Intelligence Report*, Nov 3, 2005. <http://www.alternet.org/module/printversion/27461>

<sup>53</sup> Id.

<sup>54</sup> <http://quickfacts.census.gov/qfd/states/06/06071.html>

and Latinos 82%.<sup>55</sup> Today, the Inland Empire has more than 50 small and mid-sized cities with a combined population of about 3 million.<sup>56</sup>

The city of Redlands itself has not experienced the same growth as the area around it. Between 1990 and 2000, the Redlands population grew a mere 0.7%.<sup>57</sup> Nor has Redlands recently experienced an increasing crime rate. From 1998 to 2004, violent crime in Redlands decreased 32%, according to FBI statistics.<sup>58</sup> In 2004, there were 379 reported violent crimes in Redlands, according to FBI statistics.<sup>59</sup> Redlands currently has 171 active parolees, 148 of whom were Redlands residents or had family ties to the city of Redlands prior to their incarceration.<sup>60</sup> Very few of these parolees are sex offenders or high risk offenders.<sup>61</sup>

Redlands is thus a relatively low-crime community with a stable population. There are currently no small parolee group homes in Redlands that are not licensed by the state. However, neighbors of some existing state-licensed facilities, including a home for troubled juveniles, voiced concerns to the local government about noise, visitors coming to the facilities at late hours, inadequate control over the residents, and diminished property values around the facilities. Although it could do nothing to affect state-licensed facilities, the Redlands City Council nevertheless took up the issue.

One resident, Pastor Felix Jones, commented during the September 20, 2005 city council meeting considering the two proposals, "I want to caution us against over-reacting. We

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<sup>55</sup> Holthouse, *supra*, note 44.

<sup>56</sup> *Id.*

<sup>57</sup> <http://quickfacts.census.gov/qfd/states/06/0659962.html>

<sup>58</sup> [http://www.fbi.gov/ucr/cius\\_04/](http://www.fbi.gov/ucr/cius_04/)

<sup>59</sup> [http://www.fbi.gov/ucr/cius\\_04/](http://www.fbi.gov/ucr/cius_04/)

<sup>60</sup> Oral communication by Jeffrey Gazer, California Department of Corrections, Parole Division, San Bernadino Unit; Redlands City Council Meeting; September 20, 2005.

<sup>61</sup> *Id.*

shouldn't rush forward on this. There is no emergency here in Redlands."<sup>62</sup> The city council seemed ready to heed this advice.

## **9. The Debate In Redlands**

The debate over parolee housing in Redlands was kindled by an existing state-licensed facility for troubled juveniles in the city at the intersection of Clover and University.<sup>63</sup> Neighbors of the home voiced concerns to the city officials about noise, visitors coming to the facilities at late hours, inadequate control over the residents, and diminished property values around the facilities.<sup>64</sup> Many were concerned that the state facilities might receive a license to operate housing one type of resident – for example, trouble juveniles or mentally ill senior citizens – and then “flip” the license to operate housing another, more dangerous type of resident – for example, high risk violent sex offenders.<sup>65</sup> Even though the Redlands City Council could do nothing to regulate a state-licensed facility like the one at Clover and University, and even though the facility at Clover and University subsequently closed, the Council nevertheless took up the issue of parolee housing, with the aim to assert as much local control as possible over non-state licensed facilities.<sup>66</sup>

On September 21, 2005, the Redlands City Council debated for three hours about how it could extend local control over small parolee group housing not licensed by the State of California. The first proposal was an ordinance proposed by Mayor Susan Peppler that would require nonlicensed group homes, including sober living homes, to get

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<sup>62</sup> Oral communication by Pastor Felix Jones; Redlands City Council Meeting; September 20, 2005.

<sup>63</sup> Redlands City Council Meeting, September 20, 2005.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

city conditional-use permits. These permits would cost an existing facility \$1,900, and would cost a new facility \$4,400, according to Peppler's proposal.

In order to receive a city license, a small group home would be subject to approval by the city based on an evaluation of the home's possible threat to the public health, safety, and welfare. As noted, it seems likely that, as in Fontana, which adopted a similar ordinance, the effect of this proposal would be to effectively prevent the establishment and operation of any non-state-licensed small group homes in Redlands. Many of the residents who spoke in favor of the proposal did not try to hide the fact that this was their goal:

"Do I want these people living next to me?" asked one resident, Cliff Cunningham, who spoke at the September 20 meeting and was representative of the residents who spoke in favor of the ordinance. "No, I don't."<sup>67</sup>

"Parolees chose their way of life," said another resident, Lois Luke. "I have no sympathy for them."<sup>68</sup>

However, most of the residents who spoke at the meeting opposed the proposed ordinance. Some were people who had been parolees, and who had previously lived in small "sober-living" group homes in Redlands. One of these speakers, Philip Rademacher, is now the cameraman who tapes the Redlands City Council meetings. "We're all parolees, but we're not degenerates," he said to the Council, urging them not to place onerous burdens on the establishment of small parolee homes. "I'm so blessed today that I got these chances in life" to live in such a home, which allowed him to overcome his addiction.

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<sup>67</sup> Id.

<sup>68</sup> Id.



Monica Will, a current parolee and resident at a sober living home since May, said, “The sober living home has real structure. It has helped me build a foundation, and make my goals to help my family and myself. I know I’ve made mistakes, but I am just trying to get my life back together. It is very structured, so we are accountable for what we do.”<sup>69</sup>

Alfred Martinez, chief deputy administrator for the Parole Division in Redlands, said at the meeting, “Our concern is that sometimes cities are moving to ban parolees. Regardless of where we place them, they are going to be in our communities.”<sup>70</sup>

An alternative proposal for parolee housing was also put forward at the City Council meeting by Redlands Police Chief Jim Buermann. Rather than merely license private, non-state-licensed small group housing for parolees, he suggested that the city actually construct and operate a single, large local parolee re-entry facility which would serve as transitional housing for many parolees. This proposal suggested that the parolee housing be operated by the police department.

Under Chief Buermann’s proposal, parolees would stay at the re-entry facility for the first three months of their release. This would give the parolees positive structure as they adjusted to life outside prison, found employment, participated in programs such as drug rehabilitation or job training, and re-connected with their families and communities. It would also give the police an opportunity to get to know the parolees. The city of Redlands would retain control of the facility, and would either operate it directly or would supervise any privately contracted staff. Only parolees with prior ties to Redlands

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<sup>69</sup> Id.

<sup>70</sup> Id.

would be permitted to enter the Redlands facility, so that it would not become a “dumping ground” for parolees from all over the region.

Chief Buermann stated at the City Council meeting on September 20, “From my perspective, these parolees are at a fork in the road. We are either going to facilitate their road to rehabilitation, or their road back to prison.”<sup>71</sup>

On October 4, Chief Buermann reported back to the Redlands City Council that shortly after the September 20 City Council meeting, he was contacted by California Cabinet Secretary Roderick Hickman, who was appointed the Secretary of the California Department of Corrections and Rehabilitation by Governor Schwarzenegger in July, 2005, and who oversees the entire California correctional system, including parole. Buermann reported that Hickman expressed significant interest in Redlands becoming a model for California cities as to how to safely manage inmates returning to their communities. Hickman pledged full support of the state department in helping Redlands develop a police-managed reentry facility.<sup>72</sup> Hickman agreed that under this proposal, the re-entry facility would be paid for by the state, but managed locally by the Redlands Police Department.

Mayor Pepler emphatically said that she still favored her original proposal and was opposed to Chief Buermann’s proposal. She said Chief Buermann’s proposal was “dangerous” and “irresponsible.” “There is a reason that no communities will accept these re-entry facilities,” she said.<sup>73</sup> However, she also professed that her own proposal was not designed to ban all parolee housing, only housing for high risk parolees and sex

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<sup>71</sup> Id.

<sup>72</sup> Redlands City Council Meeting, October 4, 2005.

<sup>73</sup> Id.

offenders. She suggested that her proposed ordinance would not prohibit sober living facilities, which she claimed to support for nonviolent offenders with substance abuse problems.

Chief Buermann noted that parolees would be returning to Redlands anyway. “Any cop, any parole officer will tell you, homeless parolees are a danger to the community,” he said.<sup>74</sup> The other council members expressed a range of tentative opinions about the Buermann proposal, from tentative support to a desire for more information before making a final decision on which proposal to favor. The City Council ultimately voted to extend the temporary moratorium on new parolee housing in Redlands while it conducted further research.<sup>75</sup>

## **11. Legal and Constitutional Issues Around The Redlands Licensing Proposal**

The proposed ordinance that requires small group parolee housing to obtain conditional use permits not only is questionable public policy, it presents several legal and constitutional issues. Although the Fontana ordinance on which it is based has not been challenged in court to date, these issues could present potential bases for court challenges against these types of ordinances in the future.

There are three main questions that may potentially form a legal basis for challenging or attacking the legality of the Redlands ordinance. These questions are: (1) do the city’s delegated land-use powers and zoning enabling laws permit it to regulate housing arrangements for a certain designated class of persons, namely parolees, or to regulate the private alcohol consumption by this class of persons in such living

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<sup>74</sup> Id.

<sup>75</sup> Id,

arrangements under the auspices of regulating parolee sober living arrangements?; (2) does state preemption of alcohol regulation prohibit the city from attempting to regulate parolee sober living arrangements by regulating private alcohol consumption or to enforce a city-mandated prohibition on private alcohol consumption by the parolee-residents of these homes?; (3) do federal and state antidiscrimination and fair housing laws prohibit the city from regulating parolee or sober living housing arrangements?

The city of Fontana's similar ordinance regulating parolee homes in residential family zones using the conditional use permit has been in effect since November 2002 with no apparent problems or legal challenges against it. This may indicate that the ordinance is politically or even possibly legally viable.

Polk County, Iowa has also proposed a similarly structured ordinance regulating the areas in which convicted sex offenders may reside within a residential zone. The ordinance under consideration in Redlands mirrors one recently implemented in Des Moines that would restrict convicted sex offenders from residing within 2,000 feet of certain child-oriented facilities including public parks, public libraries, public swimming pools, and multi-use recreational trails, in addition to the current residency restrictions for sex offenders around schools and day care centers mandated by existing Iowa state law.

Following this example, it is reasonable to think that if a city may restrict residency for a certain class of ex-convicts, namely sex offenders, without issue, then a city ordinance restricting residency for a similar class of citizens—parolees—for similar public safety concerns might withstand legal scrutiny as well.

The strongest avenue for challenging the proposed Ordinance might be a claim that the city's delegated land-use power from the state or its zoning enabling laws do not

include the authority from the state to regulate parolee or sober living housing arrangements under the auspices of local land-use regulation powers. This is an argument that would be made by citing the pertinent laws and state-delegated land-use authority in Redlands.

A second possible attack on the ordinance would be a claim that the city does not have legal authority to regulate parolees using conditional use permits under occupancy limitation laws. The claim would be specifically that the city's proposed residency restrictions on certain classes of people – in this case, parolees – would not count as a legitimate “land-use” such that it would fall under the city's delegated authority to regulate land-use.

This second possible attack on the ordinance draws from two related cases that deal with the topic of a city's ability to regulate based on occupancy limitations. *Village of Belle Terre v. Boraas*, 416 U.S. 1 (1974) involved a city ordinance that restricted land use to single-family dwellings, where the word “family” was defined as one or more related persons or a number of persons not exceeding two that were unrelated. The U.S. Supreme Court upheld the constitutionality of this ordinance since the ordinance did not involve a fundamental right guaranteed by the Constitution and did not involve a procedural disparity inflicted on some persons, but not others.

However, in *Moore v. City of East Cleveland, Ohio*, 431 U.S. 494 (1977), the Supreme Court found that a city's housing ordinance which attempted to regulate which members of an extended family network could permissibly live together under the zoning definition of “family” was unconstitutional because it bore no rational relationship to any permissible state objective and violated the Due Process Clause of the Fourteenth

Amendment by infringing on the sanctity of family autonomy. Unlike the Belle Terre ordinance, this ordinance defined “family” in such a way that a second grandchild was excluded from living in the dwelling. The Court distinguished this case from *Belle Terre* by saying that the Belle Terre ordinance drew the line between related and unrelated individuals, while the East Cleveland ordinance distinguished between degrees of related individuals. The Court said here that cutting off the definition of “family” to include only the nuclear family was unfounded, since the security and support benefits characteristic of families were traditionally provided by the extended family as well.

However, the Court’s loosening of the definition of “family” past the nuclear family does not seem like it would extend to a group of unrelated persons whose sole common characteristic is that they are on parole from a federal or state prison, and it would be unlikely that six or fewer parolees living in a common dwelling would qualify as a “family” for legal purposes. In fact, in *Belle Terre*, the Court explicitly authorized it as within legislature’s purview to define family on the basis of related versus unrelated persons. This indicates that this second avenue of attack on the ordinance is unlikely to succeed.

A third possible avenue for attacking the ordinance would be to make a claim that ordinance violates fair housing or equal protection laws. A potential fair housing or equal protection claim may arise if, as a result of the proposed ordinance, most or all parolee homes were relegated to poorer, more minority-influenced areas of the city, and if most parolees who were relegated to the minority neighborhoods were themselves minorities. In this case, the ordinance might have a disparate impact effect of enforcing racial

segregation in housing by sending the minority parolees to existing minority neighborhoods and keeping them out of predominantly white neighborhoods.

However, because the ordinance has not yet been adopted, it is unclear what specific effect it would have in terms of racial demographics in Redlands. There is also the possibility that homes of six or fewer occupants fall under the federal housing law minimum occupancy limit for federal regulation, such that federal housing law would not even apply to them. This means that this third possible avenue for attack on the proposed ordinance is unlikely to succeed.

If the proposed ordinance were amended to regulate sober living homes as separate from parolee homes, so as to enforce sobriety in sober living homes by prohibiting private alcohol consumption by the occupants of the homes, then the ordinance might be vulnerable to a preemption challenge that the state's regulation of alcohol effectively prohibits the city from attempting to regulate it. Under state law, the city may not be permitted to prohibit certain classes of people or certain areas of the city from privately consuming alcohol. Generally, cities are not permitted, nor have ever attempted, to restrict private consumption of alcohol for certain classes of people or in certain areas within its borders. However, if the aim of the Ordinance would simply be to regulate those parolee homes that self-identify as "sober living arrangements" without any city-mandated adherence to such sober living principles, the preemption problem would disappear.

The ordinance is not likely vulnerable to attack on grounds that it violates disability law, or that it discriminates against parolees under the equal protection clause of the Constitution. Drug and alcohol addiction are explicitly *not* categorized as

disabilities for the purposes of federal antidiscrimination, disabilities, and fair housing law, so drawing a distinction around sober living parolee homes will most likely not implicate these protections. For purposes of equal protection law, parolees are not a suspect class, so that an ordinance regulating housing on the basis of parolee status would be subject only to a low level rational basis scrutiny by the courts. The proposed ordinance would likely pass rational basis scrutiny if challenged.

In summary, it therefore seems probable that the licensing ordinance, if passed by the city, would go unchallenged and could legally withstand any challenge brought against it. Nevertheless, there is a broad gap between what policies are legally and constitutionally permissible and what policies are in the best public interest. The proposed licensing ordinance would make it harder for the police to track and control parolees, and would make it harder to provide parolees with safe, secure, and efficient housing that they need.

### **PART III: CONCLUSION**

The city of Redlands has the opportunity to be a model of providing supportive, secure, and efficient housing for recently released parolees by choosing to work with the state government to build and operate a large re-entry facility for Redlands parolees under the control of the Redlands police department. This facility would be expressly for parolees who are already going to be returning to the city of Redlands anyway, but it would provide the structure necessary to give the parolees the best possible chance to rehabilitate and reintegrate with the community successfully, and to give the community the security and control necessary to maintain the safety of Redlands residents. The



proposed Redlands ordinance to license and restrict parolee housing, in contrast, would only complicate and aggravate these challenges.

Research has shown that prisoners should ideally make the transition from prison to the community in a gradual, closely supervised process.<sup>76</sup> One example of a successful program is the Illinois Department of Correction's Chicago Day Reporting Center (DRC). The program is for high-risk parolees on the Southside of Chicago. The DRC program participants normally stay in the program for about six months, during which time they gradually progress through three phases, each with more relaxed restrictions on curfew, drug testing, and electronic monitoring. The inmates do not live at the facility, but report to it every day. They participate in many programs such as anger management, family reintegration, employment training, cognitive skills, GED and education courses, job development, and substance abuse treatment and education. Employees must be employed to get out of phase 3 and graduate from the program.

A recent evaluation of the program found that rearrest and reincarceration rates for the participants were significantly lower than those of a matched comparison group, such that the DRC participants were returned to prison at about half the rate of the comparison group at the end of year one and at the end of year three after release. The evaluation estimated that, even accounting for the cost of the program of about \$6,600 per participant, the DRC program saved about \$3.6 million over 3 years by lowering the reincarceration rate. The program thus was a success both for the participants and for society.

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<sup>76</sup> PETERSILIA, *supra*, note 16, at 98.

The choice that Redlands makes between the two proposals that it is considering could prove to be influential to the other communities that are considering similar ordinances. If Redlands can develop a model program of parolee housing, it could be a significant positive turning point in the reform of California's parole system.

**MUNICIPALITY OF ANCHORAGE  
PLANNING DEPARTMENT  
MEMORANDUM**

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**DATE:** July 9, 2007

**TO:** Planning and Zoning Commission

**THRU:** *TW* Tom Nelson, Director, Planning Department

**THRU:** Jerry T. Weaver, Jr., Division Administrator

**FROM:** *AC* Angela C. Chambers, AICP, Senior Planner

**SUBJECT:** 2007-094 An Ordinance Amending AMC Title 21 Regarding  
Community Correctional Residential Centers

**BACKGROUND AND DISCUSSION**

In 1995, the Municipal Assembly approved an ordinance regarding community correctional residential centers, commonly referred to as CCRC's. At the time, there was concern relating to felons being housed in and near residential neighborhoods.

The use category as codified regulates the number of CCRC's locating in the Downtown area by not allowing any new CCRC's there, and to create a method to ensure that the facilities were spread throughout the Municipality instead of centering them in only certain neighborhoods by requiring a separation distance of one mile between said facilities. All CCRC's are allowed by conditional use only, and are only allowed in the commercial, industrial and public lands and institutions zoning districts.

This ordinance process began in 1992, and there were subsequent 1998 amendments clarifying the definitions of prisoner when clarified that persons convicted of a crime who are on parole or probation, are considered "prisoners" under the code. It also kept the status quo on number of available beds to felons by retaining the prohibition on felons being allowed in CCRC's located in the B-3 district.

Since that time, it has become apparent that these facilities are, for the most part, not so-called half-way houses, but instead are rehabilitative facilities that serve as an alternative to jail for those clients who qualify for the program. These programs are highly structured and have strict security. Examples are the Dena A. Coy facility off of DeBarr and Bragaw Streets and the Ernie Turner

facility on Bragaw Street and Tudor Road. These facilities are generally very clean, quiet and have reputations as being "good neighbors." They require a conditional use approval from the Planning and Zoning Commission, and the programs are regulated and licensed by the State of Alaska.

There has been significant discussion in the past several years regarding the issue of locational criteria for these facilities. They require closer proximity to urban services such as hospitals, rehabilitation programs and social services. However, the current one-mile separation requirements, especially coupled with the prohibition on housing felons in the B-3 district, creates significant problems in locating new facilities in Anchorage. Instead of being able to locate the facilities in the higher density urban areas, it restricts them now to areas well away from said services.

In reviewing the issues related to the use itself, and to the concern of separation distance, it has been determined that the real concern is the density of residents of the facilities in general, as opposed to the numbers of facilities themselves. There are no other land uses which require a separation distance between from the same use. Instead, residential uses are managed through density, and those residential uses with a program associated are further regulated through programmatic requirements and any buffering as determined by the Commission on a case-by-case basis.

The Department recommends that the separation distance between CCRC's be amended to either 1,000 feet, or as determined appropriate by the Commission on an individual application basis. At the same time, a maximum density requirement for the facility should be also set in the B-3 district at a density to not exceed 30 residents, as this is the primary use district CCRC's are allowed in which allow for a significant residential component. Also, as convicted felons who are on probation or without parole restrictions can live anywhere of their choosing, they should not be further restricted when a part of a rehabilitation program.

The Department finds that this amendment will provide for the siting of CCRC facilities on a case-by-case basis as appropriate, while maintaining intended restrictions on density. No changes to the restrictions against new facilities in the Downtown area are proposed.

#### **RECOMMENDATION:**

The Department recommends approval of the ordinance as written.

Submitted by: Chair of the Assembly at the  
request of the Mayor  
Prepared by: Planning Department  
For reading

## ANCHORAGE, ALASKA

AO 2007-

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.40, AND 21.50 REGARDING CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS, AMENDING THE B-3 (GENERAL BUSINESS) ZONING DISTRICT, AND AMENDING CONDITIONAL USE STANDARDS REGARDING CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS.

### THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** Anchorage Municipal Code section 21.40.180 is hereby amended to read as follows  
(the remainder of the section is not affected and therefore is not set out):

**21.40.180**      **B-3 general business district.**

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D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

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11. Correctional community residential centers, not to exceed 30 residents.

\*\*\*      \*\*\*      \*\*\*

(GAAB 21.05.050.M; AO No. 77-355; AO No. 78-28; AO No. 80-57; AO No. 80-132; AO No. 81-67(S); AO No. 83-209; AO No. 85-18; AO No. 85-91, 10-1-85; AO No. 85-173, 3-17-86; AO No. 86-90; AO No. 86-182; AO No. 87-32; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-26; AO No. 92-114; AO No. 95-68(S-1), § 9, 8-8-95; AO No. 96-107, § 1, 7-30-96; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 7, 12-8-98; AO No. 99-62, § 22, 5-11-99; AO No. 2001-80, § 6, 5-8-01; AO. No. 2004-108(S), § 3, 10-26-04; AO No. 2005-185(S), § 21, 2-28-06; AO No. 2005-124(S-1A), § 24, 4-18-06)

**Section 2.** Anchorage Municipal Code section 21.45.080 is hereby amended to read as follows  
(the remainder of the section is not affected and therefore is not set out):

**21.50.035**      **Standards for correctional community residential centers.**

\*\*\*      \*\*\*      \*\*\*

[B. CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS IN THE B-1B, B-3 AND B-4 ZONING DISTRICTS MAY HOUSE ONLY RESIDENTS

CONVICTED OF MISDEMEANORS.]

B[C]. No new correctional community residential center may be located within one thousand feet [ONE MILE] of an existing center, unless the Planning and Zoning Commission determines that a further reduction in separation distance is warranted based upon the program proposed and any other circumstances the Commission deems appropriate. If the Commission reduces the separation distance, it shall adopt findings of the facts upon which such reduction is based. Measurement shall be made from the nearest property line of an existing center to the property line of the site proposed for a new center.

C[D]. Program occupancy limits shall be as determined by the state department of corrections.

D[E]. The land use standard to establish maximum resident occupancy at a center is a minimum of 150 square feet of building area per resident, calculated by including all bedroom, kitchen, bathroom, living, recreation and other areas within the facility intended for common use by the residents.

E[F]. A center shall provide one off-street parking space per each full-time staff member, based on the maximum anticipated staffing.

F[G]. Correctional community residential centers structured on the apartment living concept shall adhere to the residential dwelling unit density, minimum lot, minimum yard, maximum lot coverage and maximum building height provisions of the zoning district in which they are located.

G[H]. Refuse containers and facilities shall be enclosed as required by the supplementary district regulations.

H[I]. Landscaping requirements shall conform to those of the underlying zoning district.

(AO No. 95-68(S-1), § 12, 8-8-95)

**Section 3.** This ordinance shall be effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Chair

ATTEST:

1  
2 Municipal Clerk

j:\w G:\zon\_plat\Ordinances\2007\New CCRC (2).DOC

**Pierce, Eileen A**

---

From: Inglis, Jillanne M.  
Sent: Monday, June 11, 2007 5:00 PM  
To: Stewart, Gloria I.; Pierce, Eileen A

**RECEIVED**

JUN 12 2007

Municipality of Anchorage  
Zoning Division

No comment for cases 2007-094, 096 or 098.

Thanks,  
Jillanne



Municipality Of Anchorage  
ANCHORAGE WATER & WASTEWATER UTILITY

RECEIVED

JUN 11 2007

MEMORANDUM

Municipality of Anchorage  
Zoning Division

DATE: June 11, 2007  
TO: Jerry Weaver, Zoning Division Administrator, Planning Department  
FROM: Paul Hatcher, Engineering Technician III, AWWU P.H.  
SUBJECT: Zoning Case Comments  
Planning & Zoning Commission Hearing July 9, 2007  
Agency Comments due June 11, 2007

AWWU has reviewed the materials and has the following comments.

**07-094** Title 21.40 & 21.50, Community correctional residential centers.

1. AWWU has no objection to the proposed ordinance amendment.

If you have any questions pertinent to public water and sanitary sewer, you may call me at 564-2721 or the AWWU planning section at 564-2739, or e-mail [paul.hatcher@awwu.biz](mailto:paul.hatcher@awwu.biz).



**RECEIVED**

JUN 11 2007

Municipality of Anchorage  
Zoning Division

## FLOOD HAZARD REVIEW SHEET

Date: 06/07/07

Case: 2007-094

Flood Hazard Zone: NA

Map Number: NA

- ☐ Portions of this lot are located in the floodplain as determined by the Federal Emergency Management Agency.
- ☐ Flood Hazard requests that the following be added as a condition of approval:

“Portions of this subdivision are situated within the flood hazard district as it exists on the date hereof. The boundaries of the flood hazard district may be altered from time to time in accordance with the provisions of Section 21.60.020 (Anchorage Municipal Code). All construction activities and any land use within the flood hazard district shall conform to the requirements of Chapter 21.60 (Anchorage Municipal Code).”

- ☐ A Flood Hazard permit is required for any construction in the floodplain.
- ☐ Other:
- ☒ I have no comments on this case.

Reviewer: Jeffrey Urbanus



# MUNICIPALITY OF ANCHORAGE

Development Services Department  
Right of Way Division



## MEMORANDUM

**RECEIVED**

**DATE:** June 6, 2007  
**TO:** Planning Department, Zoning and Platting Division  
**THRU:** Jack L. Frost, Jr., Right of Way Supervisor *L*  
**FROM:** Lynn McGee, Senior Plan Reviewer *L*  
**SUBJ:** Comments on Planning and Zoning Commission case(s) for July 9, 2007.

JUN 07 2007  
Municipality of Anchorage  
Zoning Division

Right of Way has reviewed the following case(s) due June 11, 2007.

- 07-087** Sec 33, T13N R3W Lots 49A, 49B, 49C, and 52, grid 1834  
(Rezoning Request, R-2A to R-3)  
There is no existing cul de sac at the east end of East 49<sup>th</sup> Court.  
No storm drain system exists in East 49<sup>th</sup> Court right of way.  
Laurel Street to the east of Lot 52 has no utilities or storm drain system in the right of way, and nor is the road built, making access to a high density development inadequate. Infrastructure, public access improvements and possibly dedication of right of way or Public Use Easement(s) will be required to access and develop these lots.  
Review time 30 minutes.
- 07-093** Sec 25 T15N R2W, NW ¼, excluding Lots 69, 70, & 71, grid NW0752  
(Conditional Use for Natural Resource Extraction)  
Right of Way Division has no comments at this time.  
Review time 15 minutes.
- 07-094** Ordinance Amendment  
(Title 21 for Community Correctional Residential Center)  
Right of Way Division has no comments at this time.  
Review time 15 minutes.
- 07-096** Ordinance Amendment  
(Title 21 for Girdwood Zoning District GIP)  
Right of Way Division has no comments at this time.  
Review time 15 minutes.
- 07-098** Woodside East #3, Lot 127, grid 1533  
(Amending a Conditional Use for an Amendment to a PUD)  
Right of Way Division has no comments at this time.  
Review time 15 minutes.



**MUNICIPALITY OF ANCHORAGE**  
Traffic Department



**MEMORANDUM**

JUN 07 2007

Municipality of Anchorage  
Zoning Division

DATE: June 6, 2007  
TO: Jerry T. Weaver, Platting Supervisor, Planning Department  
THRU: Leland R. Coop, Associate Traffic Engineer  
FROM: Mada Angell, Assistant Traffic Engineer  
SUBJECT: Traffic Engineering and Transportation Planning Comments for  
July 9, 2007 Planning and Zoning Commission

**07-087** Sec 33 Lots 49C, 49B, 49A & 52; Rezone R-2A to R-3; Grid 1834

No direct vehicular access will be allowed to Lake Otis Parkway from These lots.

**07-093** Portions of Sec 25; Conditional Use for a natural resource  
extraction; Grid NW752

Haul route to conform to Title 9 requirements. See 9.46.410.

**07-94** Ordinance amending Title 21 for correccional residential centers

Traffic Engineering and Transportation Planning have no comment.

**07-096** Ordinance amending Title 21 for Girdwood Zoning District  
Girdwood Institutions and Parks (GIP)

Traffic Safety and Transportation Planning have no comment.

**07-098** Woodside East; minor amendment to a PUD to allow a front yard  
encroachment Grid 2365

Traffic Safety and Transportation Planning have no comment.



**Municipality of Anchorage  
Development Services Department  
Building Safety Division**

**MEMORANDUM**

**RECEIVED**

MAY 29 2007



---

**DATE:** May 29, 2007  
**TO:** Jerry Weaver, Jr., Platting Officer, CPD  
**FROM:** *DR* Daniel Roth, Program Manager, On-Site Water and Wastewater Program  
**SUBJECT:** Comments on Cases due June 11, 2007

---

The On-Site Water & Wastewater Program has reviewed the following cases and has these comments:

2007 - 087 Rezoning to R-3 Multiple-family residential district

No objection

2007 - 093 Zoning conditional use for a natural resource extraction

No objection

2007 - 094 An ordinance amending Title 21 for community correctional residential center

No objection

2007 - 096 An ordinance amending Title 21 for Girdwood Zoning District GIP

No objection

2007 - 098 Amending a conditional use for an amendment to a PUD

No objection

Pierce, Eileen A

**RECEIVED**

**From:** Staff, Alton R.  
**Sent:** Monday, May 21, 2007 4:55 PM  
**To:** Stewart, Gloria I.; Pierce, Eileen A  
**Subject:** Zoning and Plat Reviews

**MAY 22 2007**  
**Municipality of Anchorage**  
**Zoning Division**

S11596-1 People Mover has an eastbound on-street bus stop on 36<sup>th</sup> Avenue adjacent to proposed Tract A-2. Any development of this parcel should take into consideration pedestrian access to this bus stop.

The Public Transportation Department has no comment on the following zoning cases:

2007- 087  
090  
092  
093  
094  
096  
098

The Public Transportation Department on no comment on the following plats:

S11582-1  
S11592-1  
S11597-1

Alton R. Staff  
Planning Manager  
Public Transportation Department  
3650A East Tudor Road  
Anchorage, AK 99507  
907-343-8230

# Zoning and Platting Cases On-line

## View Case Comments

[Submit a Comment](#)

**\*\* These comments were submitted by citizens and are part of the public record for the cases \*\***

**Questions?** If you have questions regarding a case, please contact Zoning at **907-343-7943** or Platting & Variances at **907-343-7942**.

**1. Select a Case:**

[View Comments](#)

**2. View Comments:**

MAY 21 2007

RECEIVED  
MAY 21 2007  
ANCHORAGE MUNICIPAL GOVT  
ZONING DEPARTMENT

**Case Num:** 2007-094

An ordinance amending Title 21 for community correctional residential center

**Site Address:** MOA

**Location:** An Ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers.

[Details](#) | [Staff Report](#) | [submit a comment](#)

## Public Comments

**5/21/07**

Rod McCoy

7749 Old Harbor Road

Anchorage AK 99504

This needs a staff report to aid understanding of this change in title 21.

[Zoning & Platting Cases On-line website](#)

260

**PLANNING & ZONING  
COMMISSION  
MEETING  
July 9, 2007**

**Supplemental Information**

*C.2.*

~~G.2.~~ Case 2007-094

**Ordinance Regarding Community  
Correctional Residential Centers**

Double-sided



**RECEIVED**

**JUN 27 2007**

**Pierce, Eileen A**

**From:** Peggy Robinson [probinson@ak.net]

**Municipality of Anchorage  
Zoning Division**

**Sent:** Tuesday, June 26, 2007 4:31 PM

**To:** Pierce, Eileen A; Mayor Mark Begich; Selkregg, Sheila A.; Starr, William E.; Bill Starr  
Personal; Ossiander, Debbie A.; Bauer, Paul A.

**Subject:** Case 2007-094 - Title 21 Proposed Changes

**Attachments:** NECC June 21 Res 2 Half-way.pdf

Dear Anchorage Planning and Zoning Commission, Planning Department, Mayor Begich, Assembly Members  
Bauer, Ossiander, Selkregg, and Starr:

Attached is the resolution the NorthEast Community Council passed at our meeting last Thursday regarding  
changing the criteria for locating half-way houses.

Please contact me if you have any questions.

Peggy

Peggy Robinson, NECC President

907-333-1831 home, 907-632-6436 cell

1816 Westview Circle, Anchorage, AK 99504

262

6/27/2007

RECEIVED

JUN 27 2007

Municipality of Anchorage  
Zoning Division

NECC

Northeast Community Council

Resolution 2 - June 21, 2007

TO: Anchorage Planning and Zoning Commission  
MOA Planning Department  
Mayor Mark Begich  
Assembly Members Bauer, Ossiander, Selkregg, Starr

FROM: Peggy Robinson, President  
Northeast Community Council, 333-1831

SUBJECT: Case 2007-094 Title 21.40.180 & 21.50.035 proposed changes

At the NorthEast Community Council meeting on June 21<sup>st</sup>, we discussed the proposed changes in Title 21 to locating community correctional residential facilities. We are concerned about locating these facilities too close to one another, which is why this section was changed previously to space them at least one mile apart. We are also concerned about housing felons in these facilities, which may be closer to residential areas than where they are currently located. Of special concern was the housing of sex offenders. This was added to the main motion as an amendment, with a vote of 15 for, 12 opposed, and 2 abstaining.

We understand that appropriate and supervised integration back into society is important for successful rehabilitation of criminals. This is a balancing act between the quality of life in the community location and the needs of the correctional community for additional residential facilities.

The following motion was made:

NECC June 21, 2007 Motion 2:

*The NorthEast Community Council supports the recommended change in this section for facilities to not exceed 30 residents. We support allowing up to 10% of the capacity of the facility to house felons (except sex offenders). We support decreasing the distance between such facilities to ½ mile, property line to property line.*

After further discussion among the membership, the motion passed: 21 in favor, 3 opposed, 4 abstaining.

We ask that you act upon this motion as warranted in the interests of the NECC and the community of Anchorage as a whole. Thank you for your attention to this matter.

Signed:

*Peggy Robinson*

263

**RECEIVED**

JUN 27 2007

Municipality of Anchorage  
Zoning Division**NECC**

Northeast Community Council

Resolution 2 - June 21, 2007

TO: Anchorage Planning and Zoning Commission  
MOA Planning Department  
Mayor Mark Begich  
Assembly Members Bauer, Ossiander, Selkregg, Starr

FROM: Peggy Robinson, President  
Northeast Community Council, 333-1831

SUBJECT: Case 2007-094 Title 21.40.180 & 21.50.035 proposed changes

FAX: 343-7927

At the NorthEast Community Council meeting on June 21<sup>st</sup>, we discussed the proposed changes in Title 21 to locating community correctional residential facilities. We are concerned about locating these facilities too close to one another, which is why this section was changed previously to space them at least one mile apart. We are also concerned about housing felons in these facilities, which may be closer to residential areas than where they are currently located. Of special concern was the housing of sex offenders. This was added to the main motion as an amendment, with a vote of 15 for, 12 opposed, and 2 abstaining.

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*The NorthEast Community Council supports the recommended change in this section for facilities to not exceed 30 residents. We support allowing up to 10% of the capacity of the facility to house felons (except sex offenders). We support decreasing the distance between such facilities to ½ mile, property line to property line.*

After further discussion among the membership, the motion passed: 21 in favor, 3 opposed, 4 abstaining.

We ask that you act upon this motion as warranted in the interests of the NECC and the community of Anchorage as a whole. Thank you for your attention to this matter.

Signed:



# Zoning and Platting Cases On-line

## View Case Comments

[Submit a Comment](#)

**\*\* These comments were submitted by citizens and are part of the public record for the cases \*\***

**Questions?** If you have questions regarding a case, please contact Zoning at **907-343-7943** or Platting & Variances at **907-343-7942**.

**RECEIVED**

JUL 0 2 2007

Municipality of Anchorage  
Zoning Division**1. Select a Case:** [View Comments](#)**2. View Comments:****Case Num: 2007-094**

An ordinance amending Title 21 for community correctional residential center ,

**Site Address: MOA**

**Location:** An Ordinance amending Anchorage Municipal Code Chapters 21.40, and 21.50 regarding Correctional Community Residential Centers, amending the B-3 (General Business) zoning district, and amending conditional use standards regarding Correctional Community Residential Centers.

[Details](#) | [Staff Report](#) | [submit a comment](#)

## Public Comments

**6/28/07**

Barbara Cash

Anchorage AK 99517

I support this proposed amendment which would allow Correctional Community Residential Centers in B-3 zones, and would amend conditional use standards regarding Correctional Community Residential Centers. The positive correctional & behavioral outcomes that can be achieved through community residential centers (with this amendment) will have lasting impact, without being detrimental to the business district.

265



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**Anchorage Police Department****Fax Transmittal Cover Sheet**

4501 South Bragaw Street - Anchorage, Alaska 99507-1599

Telephone (907) 786-8500

---

DATE:

*6/29/07*

TO:

*Planning ; Zoning*

FAX:

FROM:

*Chief Rob Heun*

PHONE:

*786-8590*

FAX:

*786-8638*

Number of Pages in transmission including cover sheet:



# Municipality of Anchorage

4501 Braglow Street • Anchorage, Alaska 99507-1500 • Telephone (907) 786-8500 • <http://www.muni.org>



Mayor Mark Begich

## Anchorage Police Department

**RECEIVED**

JUL 02 2007

Municipality of Anchorage  
Zoning Division

July 2, 2007

Anchorage Planning and Zoning Commission  
PO Box 196650  
Anchorage, Alaska, 99519-6650

Dear Commissioners:

I wanted to notify the Planning and Zoning Commission that the Anchorage Police Department (APD) has reviewed the proposed ordinance changes to correctional community residential centers in Title 21 contained in 2007-094.

We understand that correctional community residential centers would be allowed in a B3 general business district as a conditional use, that the type of residents eligible for placement would be expanded to include felons that were not a danger to the community and that the one-mile distance requirements between these type of centers would be reduced to 1000 feet.

APD has no objection to these changes.

Rob Heun  
Chief of Police



Alaska Native  
JUSTICE CENTER

Find your voice. Find your way.

121 W. Fireweed Lane, Suite 240 Anchorage, AK 99503 Ph 907-278-1122 Fax 907-278-1121

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JUL 03 2007

Municipality of Anchorage  
Zoning Division

## FACSIMILE COVER SHEET

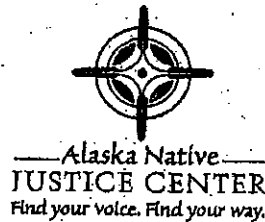
TO: Anchorage Planning + Zoning Comm'n  
COMPANY: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
FAX: 343.7927

FROM: Denise Morris  
Alaska Native Justice Center  
Phone 907/278-1122 Fax 907/278-1121

DATE: 2 July 2007

PAGES: (including cover) 2

The information contained in this facsimile transmittal is intended only for the addressee or the addressee's authorized agent. The message may contain information that is privileged, confidential, or otherwise exempt from disclosure. If the reader of this information is not the intended recipient, or recipient's agent, you are hereby notified that any dissemination, distribution or copying of this information is strictly prohibited. If you have received this information in error, please notify the sender immediately by telephone and return the original information to the sender, by US mail, at the address above.

**RECEIVED**

JUL 03 2007

Municipality of Anchorage  
Zoning Division

Anchorage Planning and Zoning Commission  
PO Box 196650  
Anchorage, Alaska, 99519-6650

Reference Case: 2007-094

Dear Mr. Chairman:

ANJC, a non-profit organization based in Anchorage, was founded in 1993 to serve the unmet needs of Alaska Natives within Alaska's civil and criminal justice system.

By providing information, resources, attorney referrals and support to all parties involved in legal issues, we strive to achieve our mission - to promote justice through culturally based advocacy, prevention and intervention initiatives to restore dignity, respect and humanity to all Alaska Natives.

Since our inception, we have served more than 7,500 clients with issues such as bankruptcy, criminal cases, homicide, child support, landlord/tenant disputes, Alaska Native law, power of attorney, probate cases, consumer, civil, family and Indian Child Welfare Act.

One area that we have on-going concerns with is the availability of community correctional placement space in the Municipality of Anchorage. We are pleased that the Municipal Planning Department has recommended that the separation distance between these types of facilities be amended to 1,000 feet, or less, if deemed appropriate by the Commission on an individual basis. We also support amending the law to allow the placement of felons judged not to be a danger to the community into these programs. We believe that these amendments will ultimately provide a better selection of programs for the courts and corrections to consider using in the reformation of offenders.

Thank you for your consideration.

Sincerely,

Denise R. Morris  
President/CEO



**RECEIVED**

JUL 03 2007

Municipality of Anchorage  
Zoning Division

Date: July 2, 2007

To: Planning and Zoning Commission

From: University Area Community Council

Subject: Case #2007-094 – An Ordinance Amending AMC Title 21  
Regarding Community Correctional Residential Centers

The Board of the University Area Community Council (UACC) requests postponement of the hearing on the above amendment in light of the issues listed below.

The Board of UACC met concerning this amendment to AMC 21 and we have a number of concerns with the changes to Title 21 in regards Community Correctional Residential Centers (CCRCs). Our response to the amendment follows:

1. We agree with the restriction to 30 residents per CCRC.
2. We are concerned about the removal of the wording from Title 21.50.035 that restricts residents to misdemeanants. The UACC's concern is that some CCRCs are located in property zoned in B1-B, B-2, B-3 and B-4, but are adjacent to areas zoned residential. We would like to see wording that restricts CCRCs with felons to areas zoned B1-B, B-2, B-3 and B-4 AND NOT adjacent to residential property. If the restriction against felons residing in CCRCs is lifted we would like the following added to the ordinance: "Felons still serving a sentence (not on probation or parole) may only be housed in a secure CCRC a minimum of 1/4 mile from any residential setting." In addition we would like to restrict CCRC residents to non-violent offenders.
3. After reading the staff report we understand the reasoning behind decreasing the distance between CCRCs, but would like to see wording that discourages clustering of CCRCs in one section of town. We would also like to see that when planning where new CCRCs will be located community councils are notified and included in the planning process. In addition, we question why the CCRCs need to be near a hospital.

This clusters CCRCs in two areas of town and disproportionately affects surrounding residential areas.

In summary, we would like to see the Municipality address the issue of reintegration of incarcerated people into society in a manner that creates a safe place for them and also for the residents of the community in which CCRCs are placed. We believe this is an issue that needs to be addressed in a more public way than this ordinance change. In light of these questions we request that this hearing be postponed until these issues can be resolved.

There needs to be a definition for CCRCs and an explanation of why these changes are requested.

For example, Kenai uses the following criteria when deciding where CCRCs are located:

1. 1/2 mile from schools, senior facilities, daycare centers
2. proximity to licensed alcohol businesses
3. transportation & public services
4. accessibility to jobs and medical services, counseling

**PLANNING & ZONING  
COMMISSION  
MEETING  
July 9, 2007**

**Supplemental Information  
Received After Packet Delivery**

*C.2.*  
**~~G.2.~~ Case 2007-094  
Ordinance Correctional Community  
Centers**

Double-sided



**MUNICIPALITY OF ANCHORAGE**  
**PARKS & RECREATION DEPARTMENT**  
**MEMORANDUM**



**DATE:** June 29, 2007  
**TO:** Jerry T. Weaver, Zoning Div. Administrator  
**FROM:** Tom Korosei, Park Planner  
**SUBJECT:** Planning and Zoning Case Review

**RECEIVED**

JUL 02 2007

**Municipality of Anchorage**  
**Zoning Division**

---

Parks and Recreation has no comment on the following cases:

<u>CASE NO.</u>	<u>CASE</u>
2007-087	Rezoning approx. 1.80 acres from R-3 multiple-family residential to R-2A two-family residential district (E. 490 <sup>th</sup> Ave. at Lake Otis Pkwy.)
2007-089	Time extension for a parking garage (601 W. 5 <sup>th</sup> Ave.)
2007-094	Ordinance amending Title 21 for community correctional residential center (Chs. 21.40, 21.50)
2007-096	Ordinance amending Title 21 for Girdwood Zoning District GIP (Chs. 21.09, 21.40)
2007-098	Amending a conditional use for an amendment to a PUD (2115 Sorbus Way)
2007-099	Amending a conditional use for a quasi-institutional use (Ernie Turner House)



301 W. Northern Lights Blvd.  
Suite 400  
Anchorage, AK 99503

907.297.2700 *tel*  
907.297.2770 *fax*  
877.366.2700 *toll-free in Alaska*  
rasmusonfdn@rasmuson.org *email*  
www.rasmuson.org

July 3, 2007

RECEIVED

JUL 05 2007

Municipality of Anchorage  
Zoning Division

Ms. Toni Jones  
Chairwoman  
Anchorage Planning and Zoning Commission  
PO Box 196650  
Anchorage, Alaska, 99519-6650

Reference Case: 2007-094

Dear Ms. Jones:

The Rasmuson Foundation is a private foundation that promotes a better life for Alaskans. Since its founding and first grant in 1955, the Foundation has supported Alaskan nonprofit organizations in the pursuit of their goals, with particular emphasis on organizations that demonstrate strong leadership, clarity of purpose, and cautious use of resources. The vision and values established by Elmer Rasmuson continue to guide the Foundation today. The Foundation awards approximately \$28M annually to help improve the quality of life in Alaska.

The Foundation recently invested in Chanlyut, a new and unique structured living initiative in Anchorage for men who are struggling with the serious challenges of re-entering society after incarceration, recovery from substance abuse, and/or chronic homelessness. At Chanlyut, each resident teaches and learns from one another, providing a community in which residents learn to address their own challenges by creating their own constructive solutions.

As a subsidiary nonprofit of Cook Inlet Tribal Council, Chanlyut is grounded in Alaska Native values and is committed to supporting people as they learn to rebuild their lives, serve their communities, and fulfill their endless potential.

We encourage the Anchorage Planning and Zoning Commission to approve amendments to municipal ordinances necessary to allow this program to reach its full potential for the benefit of Alaskans seeking to improve their lives.

Best regards,

Diane Kaplan  
President

BOARD of  
DIRECTORS

Edward B. Rasmuson  
*Chairman*

Rob Allen

Morgan Christen

Douglas Eby

Adam Gibbons

Lile R. Gibbons

Cathryn Rasmuson

Judy Rasmuson

Mary Louise Rasmuson

Natasha von Imhof

John Wanamaker

Nadine Winters

PRESIDENT  
Diane Kaplan



301 West Northern Lights Boulevard, Suite 400  
Anchorage, Alaska, 99503  
[www.rasmuson.org](http://www.rasmuson.org)

### Facsimile Cover Sheet

Date:

7/3/07

To:

Chairwoman Toni Jones

Company:

Anch. Planning & Zoning Commission

Phone:

Fax:

343-7927

From:

Diane Kaplan via Janni Miller

Company:

Rasmuson Foundation

Phone:

907-297-2700 (or toll-free in Alaska 877-366-2700)

Fax:

907-297-2770

Pages:

2

(Including this cover page)

Message:



July 3, 2007

301 W. Northern Lights Blvd.  
Suite 400  
Anchorage, AK 99503

907.297.2700 tel  
907.297.2770 fax  
877.366.2700 toll-free in Alaska  
rasmusonfdn@rasmuson.org email  
www.rasmuson.org

Ms. Toni Jones  
Chairwoman  
Anchorage Planning and Zoning Commission  
PO Box 196650  
Anchorage, Alaska, 99519-6650

Reference Case: 2007-094

Dear Ms. Jones:

The Rasmuson Foundation is a private foundation that promotes a better life for Alaskans. Since its founding and first grant in 1955, the Foundation has supported Alaskan nonprofit organizations in the pursuit of their goals, with particular emphasis on organizations that demonstrate strong leadership, clarity of purpose, and cautious use of resources. The vision and values established by Elmer Rasmuson continue to guide the Foundation today. The Foundation awards approximately \$28M annually to help improve the quality of life in Alaska.

The Foundation recently invested in Chanlyut, a new and unique structured living initiative in Anchorage for men who are struggling with the serious challenges of re-entering society after incarceration, recovery from substance abuse, and/or chronic homelessness. At Chanlyut, each resident teaches and learns from one another, providing a community in which residents learn to address their own challenges by creating their own constructive solutions.

As a subsidiary nonprofit of Cook Inlet Tribal Council, Chanlyut is grounded in Alaska Native values and is committed to supporting people as they learn to rebuild their lives, serve their communities, and fulfill their endless potential.

We encourage the Anchorage Planning and Zoning Commission to approve amendments to municipal ordinances necessary to allow this program to reach its full potential for the benefit of Alaskans seeking to improve their lives.


Best regards,

Diane Kaplan  
President

BOARD of  
DIRECTORS

Edward B. Rasmuson  
*Chairman*  
Rob Allen  
Morgan Christen  
Douglas Eby  
Adam Gibbons  
Lile R. Gibbons  
Cathryn Rasmuson  
Judy Rasmuson  
Mary Louise Rasmuson  
Natasha von Imhof  
John Wanamaker  
Nadine Winters

PRESIDENT  
Diane Kaplan



3200 Providence Drive  
P.O. Box 196604  
Anchorage, Alaska  
99519-6604

Tel 907.562.2211

July 6, 2007

RECEIVED

JUL 06 2007

MUNICIPALITY OF ANCHORAGE  
PLATTING DIVISION

Anchorage Planning and Zoning Commission  
Municipality of Anchorage  
P.O. Box 196650  
Anchorage, AK 99519-6650

Dear Planning and Zoning Commission Members:

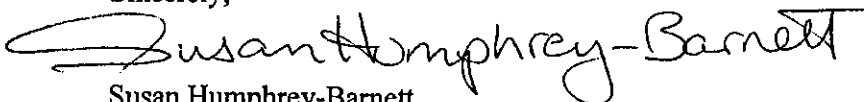
I write today in support of Chanlyut's request to amend certain municipal ordinances that will allow them to expand their program, which I understand is before you for consideration. As a leading provider of health care services in Alaska, Providence has, as a key component of our mission, special concern for those who are poor and vulnerable.

To that end, Providence Health System fully supports the goals of Chanlyut in their work to serve our community. Chanlyut offers a new beginning to men who are facing the serious challenges of addiction, homelessness, and/or re-entering society after incarceration. Unfortunately for members of our community facing those challenges who do not receive care, often times they become ill and require extensive medical treatment. Very often, the cost for that care falls upon the health care providers and the community as a whole. We at Providence believe that efforts to help these Alaskans will make our community a healthier, better place in which to live.

Chanlyut is based upon a successful model called The Delancey Street Foundation. That program is a residential education center where drug addicts, criminals and the homeless learn to lead productive, crime-free lives. It has been called the most successful rehabilitation project in the United States. The foundation runs at no cost to the taxpayer or client. They earn revenue by operating more than 20 businesses, which not only generate income, but also teach residents marketable skills and inculcate in them habits of self-control and self-discipline.

We understand that, in order to be successful, Chanlyut needs the municipality to have more flexibility in determining where these types of programs may be located in the community. We fully support any amendment to municipal ordinances, which will allow this program to achieve the same success in Anchorage that the Delancey Foundation has enjoyed in other cities. Thank you for your consideration of our request.

Sincerely,



Susan Humphrey-Barnett  
Area Operations Administrator





# CIRI

July 5, 2007

Anchorage Planning and Zoning Commission  
P.O. Box 196650  
Anchorage, AK 99519-6650

RECEIVED

JUL 06 2007  
MUNICIPALITY OF ANCHORAGE  
PLATTING DIVISION

Re: P&Z Case Number 2007-094 – Amending AMC Chapters 21.40 and 21.50

Dear Members of the Commission:

Cook Inlet Region, Inc. works to benefit the over 7,000 Alaska Natives who have ties to the Cook Inlet region. We accomplish this through our business activities and through our support of the affiliated non-profit organizations that serve our shareholders and the residents of Southcentral Alaska. One of those non-profits is the Cook Inlet Tribal Council (CITC).

Today we are writing - not about our business activities - but about an initiative of CITC. It is called Chanlyut (pronounced "shaun-loot"). Chanlyut is a unique program that provides a truly structured living environment for individuals who are committed to self improvement. Persons benefiting from this program include the chronic homeless, offenders and substance abusers who have made a decision to turn their lives around. This program, based upon a similar effort the Lower 48, empowers people with serious problems to become their own solution.

In order for this exciting program to truly work, I understand that a change in Title 21 is needed that would allow such programs to be located in the B-3 (General Commercial) zoning district under a conditional use permit. The proposed changes to the Anchorage Municipal Code proposed by Case 2007-094 would remove the arbitrary dimensional limitations in the current regulations and appropriately vest the decision concerning the location, size and compatibility of these needed facilities with the Planning and Zoning Commission, after a public input process established in the conditional use regulations.

I hope the Commission will recommend these changes to the Anchorage Assembly. I am convinced this program will do what it intends if it is given a proper chance and I sincerely hope the Commission agrees with that belief.

Sincerely,

Margaret Brown  
President & Chief Executive Officer

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RECEIVED

July 2, 2007

JUL 06 2007

MUNICIPALITY OF ANCHORAGE  
PLATTING DIVISION

Anchorage Planning and Zoning Commission  
P.O. Box 196650  
Anchorage, Alaska 99519-6650

Dear Commissioners:

Cook Inlet Housing Authority (CIHA) was founded in 1974 by the Alaska Legislature to insure elders, individuals and families in the 36,000-square-mile area of Cook Inlet Region, Inc. (CIRI) would have access to quality, affordable housing.

Our mission is to create housing opportunities that empower our people and builds our community. The Authority's housing programs are designed to empower clients and to encourage their transition toward self-sufficiency through homeownership or affordable rental housing. CIHA employs more than 80 individuals, offers four primary housing programs and operates more than 500 units of rental housing located in Anchorage, Kenai, Seldovia and Ninilchik.

In addition to providing direct service to housing clients, CIHA partners with a number of other community organizations to insure a full continuum of housing services are available to address client needs. CIHA provides assistance to the homeless or nearly homeless and those in need of transitional housing by partnering with Brother Francis Shelter, McKinnell House, The Ernie Turner Center and Homeward Bound, Dena A'Coy, Cook Inlet Tribal Council, The Municipality of Anchorage and Alaska Mental Health Trust.

I am writing the Anchorage Planning and Zoning Commission in support of a program initiated by one of our partners, Cook Inlet Tribal Council (CITC.) Recently CITC began the Chanlyut program in the neighborhood of Mountain View. It is just west of a newly constructed three story mixed-use building owned by our organization. In the previous three years, we invested over \$42 million in new or significantly renovated affordable housing that is scattered throughout the Mountain View neighborhood. The Chanlyut facility is a welcome addition to the neighborhood with a very attractive building facing Mountain View Drive and is representative of the revitalization of Mountain View Drive.

Chanlyut is a transitional residential facility that offers a new beginning for men seeking to address issues of substance abuse recovery, homelessness, and/or re-entry into the community after incarceration. To date, Chanlyut has been an excellent neighbor and enjoys the support of the surrounding community.

I understand that in order to expand into its full potential, Chanlyut is seeking a change in Title 21 which will allow it to expand to 20 residents. That change primarily gives the municipality the flexibility to issue conditional use permits for such facilities in B3 general business districts while limiting the number of residents. We fully support such an amendment and urge the Commission to approve its passage.

Respectfully,



Carol Gore  
President/CEO



# The CIRI Foundation

June 28, 2007

RECEIVED

JUL 06 2007

MUNICIPALITY OF ANCHORAGE  
PLATTING DIVISION

Planning and Zoning Commission  
Municipality of Anchorage  
PO Box 196650  
Anchorage, Alaska 99519-6650

Dear Chairman of the Board:

The CIRI Foundation is a private foundation established in 1982 by the Cook Inlet Region, Inc. (CIRI) Board of Directors to encourage education and career development of Alaska Native original enrollees of Cook Inlet Region and their direct lineal descendants. The mission of The CIRI Foundation is to promote individual self-development and economic self-sufficiency through education and to maintain pride in culture and heritage among Alaska Natives who are original enrollees of Cook Inlet Region and their direct lineal descendants. As part of its mission, The CIRI Foundation strives to support continued living traditions through selected heritage publications and media productions that enhance appreciation and understanding of Alaska Native cultures among all people.

Through post-secondary scholarships and grants, internship opportunities, research and other education projects, The Foundation, as a separate 501(c)(3) organization, has helped to fulfill one of CIRI's major corporate goals, "to improve the lives of its shareholders." Since its establishment 25 years ago, The CIRI Foundation has contributed more than \$11.8 million for the Alaska Native beneficiaries of CIRI to participate in post-secondary education and approximately \$2 million through The CIRI Foundation Education and Heritage Project Grant Program toward other non-profit organizations projects that further the goals of The CIRI Foundation by serving our people, Alaska Natives, and Alaskans.

To that end, The CIRI Foundation fully supports the Chanlyut program established by Cook Inlet Tribal Council. Chanlyut, pronounced "shawn-loot," is Dena'ina Athabascan for "new beginning." Chanlyut is the name Cook Inlet Tribal Council, Inc (CITC) calls their new residential, vocational, and educational facility launched in 2007 in the Mountain View neighborhood in Anchorage. The program is designed to help adult men recovering from substance abuse, chronic homelessness and incarceration return to a productive life in our community. Most importantly, the program is designed to promote individual self-development and economic self-sufficiency, a cornerstone of The CIRI Foundation's own efforts.

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We ask that the Anchorage Planning and Zoning Commission approve ordinance changes proposed by the planning department that will make this program successful. Specifically, we endorse the notion of reducing the separation distance from other such programs and placing a limit on the size of these types of facilities in order to ensure they retain their neighborhood character.

Thank you for your consideration of our support.

THE CIRI FOUNDATION

A handwritten signature in cursive script, appearing to read "Susan Anderson", written over a horizontal line.

Susan Anderson, M.Ed.  
President/CEO

cc: Greg Razo, Interim Chairman, The CIRI Foundation

**RECEIVED****Pierce, Eileen A**

JUL 09 2007

**From:** Dawn Scott [sos@alaska.net]  
**Sent:** Monday, July 09, 2007 11:41 AM  
**To:** Pierce, Eileen A  
**Subject:** RE: Comments for Tonight's PZC Meeting

**Municipality of Anchorage  
Zoning Division**

Thanks, Eileen. Below are my comments to share with the P&Z Commission on the CCRC issue for tonight's meeting:

Ref: 2007-094, CCRC's

I believe this issue needs further consideration and **request that the topic be postponed** until such time as some information sessions on these changes as well as the wider issue of prisoner re-entry can be convened.

These are dramatic changes, and I do not believe the community councils were informed appropriately on these proposed changes. If the facilities are concentrated near hospitals they will be most concentrated in the University Area and Airport Heights community council areas. Both of those councils are asking for a postponement.

I live in Airport Heights area and have work in prisoner re-entry. Alaska is rated as one of the worst for supporting prisoner re-entry. I have offered to help develop some community forums on this topic that will better inform our community about CCRC's and the wider issue of prisoner re-entry, but need the time to do so.

Please postpone this issue and perhaps even endorse the premise of community forums and information sessions to further study progressive prisoner re-entry opportunities that everyone in our community can be informed about and even welcome into their neighborhoods. (Delancey Street, in San Francisco, for instance, is a hub of activity and is widely supported in that city, see <http://www.eisenhowerfoundation.org/grassroots/delancey/>; CIRI is approaching this topic aggressively, and there are many others who wish to be a part of the solution.)

Thank you.

Dawn Scott  
2500 E. 16<sup>th</sup> Avenue  
Anchorage  
272-4001

---

**From:** Pierce, Eileen A [mailto:PierceEA@ci.anchorage.ak.us]  
**Sent:** Monday, July 09, 2007 11:27 AM  
**To:** sos@alaska.net  
**Subject:** Comments for Tonight's PZC Meeting

You can reply to my email and I will see that your comments are submitted.

Eileen Pierce

Office Associate

Pierceea@muni.org

907.343.7943 (voice) 907.343.7927 (fax)

282

7/9/2007

Planning Department

Zoning Division

Planning & Development Center

4700 Bragaw

Anchorage, Alaska 99507

Pierce, Eileen A

RECEIVED

JUL 09 2007

Municipality of Anchorage  
Zoning Division

**From:** Weaver Jr., Jerry T.  
**Sent:** Monday, July 09, 2007 1:59 PM  
**To:** Chambers, Angela C.  
**Cc:** Pierce, Eileen A  
**Subject:** FW: CCRC ordinance hearing 7/9/07  
**Importance:** High  
**Attachments:** 20070606153052472.pdf; ATT790691.htm; 2007-094.pdf; ATT790692.htm

Please see that the commission receives these.

Thanks

Jerry

---

**From:** Brooks, Linda J. **On Behalf Of** Nelson, Tom P. (Planning Department)  
**Sent:** Monday, July 09, 2007 1:25 PM  
**To:** Weaver Jr., Jerry T.  
**Subject:** FW: CCRC ordinance hearing 7/9/07  
**Importance:** High

Linda Brooks  
Planning Admin. Officer

---

**From:** Mayor Mark Begich  
**Sent:** Monday, July 09, 2007 10:55 AM  
**To:** Nelson, Tom P. (Planning Department)  
**Cc:** Michael, Mary Jane  
**Subject:** FW: CCRC ordinance hearing 7/9/07

Tom ---

---

**From:** bbgarner@alaska.com [mailto:bbgarner@alaska.com]  
**Sent:** Friday, July 06, 2007 11:45 PM  
**To:** Mayor Mark Begich  
**Cc:** DiSanto, Diane M.  
**Subject:** CCRC ordinance hearing 7/9/07

To: ? Mayor Mark Begich  
Fr: ? Barbara Garner  
?? ?? ?UACC board member

284

7/9/2007

RE:? CCRC ordinance change

Rep. Berta Gardner suggested I fwd the following recent letter concerning the Title 21 ordinance change regarding CCRCs. ?I will be testifying on this issue for the UACC Monday evening at the P&Z Commission hearing for the UACC Chair, Susan Klein who is traveling Outside.

-bbg

?

Begin forwarded message:

From: [bbgarner@alaska.com](mailto:bbgarner@alaska.com)

Date: July 3, 2007 10:12:55 PM AKDT

Subject: Re: CCRC ordinance hearing 7/9/07

University Area Community Council board members have concerns re an Anchorage Municipal Code (AMC)?Title 21 ordinance change regarding Community Correctional Residential Centers (CCRC) area wide in the MOA.? The P&Z hearing is next Monday evening, July 9, Loussac Library Assembly Chamber.

Few people are aware of this proposed change by the Mayor.? Although information was sent out to those signed up for Planning Department Alerts, the information sent was not clear as to the issues.? In addition, community council presidents received a paper copy of the changes to the ordinance, but no clarification on what was being changed.? We had to research the appropriate AMC Title 21 regulations to figure out what was being changed (Title 21.40.130-180 and Title 21.50.035).?

Its unfortunate that this possibly controversial issue will be heard during the summer months.? Most Community Councils won't meet again?until late August or September. ??

CCRCs are important and much in need.? Prisoners with a year/months remaining in their sentences can be placed in CCRCs with programs available to aid their positive return to life outside a prison.??

However communication about CCRCs with the public and public safety are primary.? This is not evident in this ordinance proposal.??Thus, UACC will be seeking a decision postponement by the Commission, and will urge the Mayor to further develop this ordinance.

Proposed ordinance includes:? ?(see attached document)

- Will permit CCRCs to be located in Zones B1-B, B-2, B-3 and B-4.? In particular, the narrow B-3 zones will find CCRCs adjacent to residential housing.

- Current ordinance has CCRCs located with a minimum one mile of separation.? The change will reduce it to 1000 feet of separation.

- The current code stating misdemeanants only can be placed in CCRCs is being removed.? Thus, felons and misdemeanants can be included.??

- Each CCRC will be limited to 30 residents.??

While?not defined in the ordinance, the Planning Dept. staff report (see 2nd attachment) includes



having CCRCs located near hospitals, social and rehabilitation programs.??If that criteria is followed the hospital aspect alone indicates they can be clustered in UACC's U-Med district, and the Regional hospital area.? As the?ordinance change details are limited, locations can become subject to political decisions.

My internet research the past few days reveals Outside CCRC programs that are well articulated.? Good examples are available.? MOA's staff won't need to "reinvent the entire wheel".

Why is this change occurring:? It's rumored that Southcentral Foundation purchased property in Mountain View for a CCRC, discovering after the fact that another CCRC was nearby.? We?assume the one mile of separation requirement stopped the project.

Incidental to the above, UACC has the Anchorage Gospel Rescue Mission on Tudor Road within its boundary.? It was/or is housing felons and misdemeanants in the former Tupperware building next to the Mission, zoned B-3, and an illegal program.? Its CCRC program is much less than one mile from the Ernie Turner CCRC at Tudor - Bragaw.? Our?information came via three people who have been Mission clients.

The Mayor's staff has been discussing a move from this location for the Mission.? If the proposed ordinance passes, the Mission and the CCRC program could remain.? Three recent MOA authorized studies in the Tudor and U-Med area indicate the Mission is a conflicting use in the U-Med district and should be relocated.? UACC believes this conflict be considered as the U-Med district is a major economic zone.? Providence continues to move south of 40th Avenue with properties adjacent to Piper Street in the newly identified "U-MED Gateway Neighborhood".

Barbara Garner, Board Member  
University Area Community Council  
563-6328

**MUNICIPALITY OF ANCHORAGE  
PLANNING DEPARTMENT  
MEMORANDUM**

---

**DATE:** July 9, 2007

**TO:** Planning and Zoning Commission

**THRU:** Tom Nelson, Director, Planning Department

**THRU:** Jerry T. Weaver, Jr., Division Administrator

**FROM:** Angela C. Chambers, AICP, Senior Planner

**SUBJECT:** 2007-094 An Ordinance Amending AMC Title 21 Regarding  
Community Correctional Residential Centers

**BACKGROUND AND DISCUSSION**

In 1995, the Municipal Assembly approved an ordinance regarding community correctional residential centers, commonly referred to as CCRC's. At the time, there was concern relating to felons being housed in and near residential neighborhoods.

The use category as codified regulates the number of CCRC's locating in the Downtown area by not allowing any new CCRC's there, and to create a method to ensure that the facilities were spread throughout the Municipality instead of centering them in only certain neighborhoods by requiring a separation distance of one mile between said facilities. All CCRC's are allowed by conditional use only, and are only allowed in the commercial, industrial and public lands and institutions zoning districts.

This ordinance process began in 1992, and there were subsequent 1998 amendments clarifying the definitions of prisoner when clarified that persons convicted of a crime who are on parole or probation, are considered "prisoners" under the code. It also kept the status quo on number of available beds to felons by retaining the prohibition on felons being allowed in CCRC's located in the B-3 district.

Since that time, it has become apparent that these facilities are, for the most part, not so-called half-way houses, but instead are rehabilitative facilities that serve as an alternative to jail for those clients who qualify for the program. These programs are highly structured and have strict security. Examples are the Dena A. Coy facility off of DeBarr and Bragaw Streets and the Ernie Turner

facility on Bragaw Street and Tudor Road. These facilities are generally very clean, quiet and have reputations as being "good neighbors." They require a conditional use approval from the Planning and Zoning Commission, and the programs are regulated and licensed by the State of Alaska.

There has been significant discussion in the past several years regarding the issue of locational criteria for these facilities. They require closer proximity to urban services such as hospitals, rehabilitation programs and social services. However, the current one-mile separation requirements, especially coupled with the prohibition on housing felons in the B-3 district, creates significant problems in locating new facilities in Anchorage. Instead of being able to locate the facilities in the higher density urban areas, it restricts them now to areas well away from said services.

In reviewing the issues related to the use itself, and to the concern of separation distance, it has been determined that the real concern is the density of residents of the facilities in general, as opposed to the numbers of facilities themselves. There are no other land uses which require a separation distance between from the same use. Instead, residential uses are managed through density, and those residential uses with a program associated are further regulated through programmatic requirements and any buffering as determined by the Commission on a case-by-case basis.

The Department recommends that the separation distance between CCRC's be amended to either 1,000 feet, or as determined appropriate by the Commission on an individual application basis. At the same time, a maximum density requirement for the facility should be also set in the B-3 district at a density to not exceed 30 residents, as this is the primary use district CCRC's are allowed in which allow for a significant residential component. Also, as convicted felons who are on probation or without parole restrictions can live anywhere of their choosing, they should not be further restricted when a part of a rehabilitation program.

The Department finds that this amendment will provide for the siting of CCRC facilities on a case-by-case basis as appropriate, while maintaining intended restrictions on density. No changes to the restrictions against new facilities in the Downtown area are proposed.

**RECOMMENDATION:**

The Department recommends approval of the ordinance as written.

RETURN COMMENTS TO:

DEPARTMENT OF PLANNING  
Zoning and Platting Division  
P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Phone 343-7943

Case No. 2007-094

Request: An ordinance amending Title 21 for community correctional residential center  
0.00 acre(s)

to:

community correctional residential center

Zoning: N/A

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COMMENTS AND MEETING SCHEDULE:

Planning and Zoning Commission Public hearing

Hearing Date: Monday, July 09, 2007  
Agency Comments Due: Monday, June 11, 2007  
Council Comments Due: Friday, June 29, 2007

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DISTRIBUTION: STANDARD DISTRIBUTION  
COMMUNITY COUNCIL(S):  
All Community Councils

PLANNING AND ZONING COMMISSION Assembly Hall, Z. J. Loussac Library 3600 Denali Street, Anchorage, Alaska Monday, July 09, 2007 6:30 p.m.
--

Submitted by: Chair of the Assembly at the  
request of the Mayor  
Prepared by: Planning Department  
For reading

## ANCHORAGE, ALASKA

AO 2007-

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 21.40, AND 21.50 REGARDING CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS, AMENDING THE B-3 (GENERAL BUSINESS) ZONING DISTRICT, AND AMENDING CONDITIONAL USE STANDARDS REGARDING CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS.

### THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** Anchorage Municipal Code section 21.40.180 is hereby amended to read as follows  
(the remainder of the section is not affected and therefore is not set out):

**21.40.180**      **B-3 general business district.**

\*\*\*      \*\*\*      \*\*\*

D. *Conditional uses.* Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

\*\*\*      \*\*\*      \*\*\*

11. Correctional community residential centers, not to exceed 30 residents.

\*\*\*      \*\*\*      \*\*\*

(GAAB 21.05.050.M; AO No. 77-355; AO No. 78-28; AO No. 80-57; AO No. 80-132; AO No. 81-67(S); AO No. 83-209; AO No. 85-18; AO No. 85-91, 10-1-85; AO No. 85-173, 3-17-86; AO No. 86-90; AO No. 86-182; AO No. 87-32; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 92-26; AO No. 92-114; AO No. 95-68(S-1), § 9, 8-8-95; AO No. 96-107, § 1, 7-30-96; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 7, 12-8-98; AO No. 99-62, § 22, 5-11-99; AO No. 2001-80, § 6, 5-8-01; AO No. 2004-108(S), § 3, 10-26-04; AO No. 2005-185(S), § 21, 2-28-06; AO No. 2005-124(S-1A), § 24, 4-18-06)

**Section 2.** Anchorage Municipal Code section 21.45.080 is hereby amended to read as follows  
(the remainder of the section is not affected and therefore is not set out):

**21.50.035**      **Standards for correctional community residential centers.**

\*\*\*      \*\*\*      \*\*\*

[B. CORRECTIONAL COMMUNITY RESIDENTIAL CENTERS IN THE B-1B, B-3 AND B-4 ZONING DISTRICTS MAY HOUSE ONLY RESIDENTS

CONVICTED OF MISDEMEANORS.]

B[C]. No new correctional community residential center may be located within one thousand feet [ONE MILE] of an existing center, unless the Planning and Zoning Commission determines that a further reduction in separation distance is warranted based upon the program proposed and any other circumstances the Commission deems appropriate. If the Commission reduces the separation distance, it shall adopt findings of the facts upon which such reduction is based. Measurement shall be made from the nearest property line of an existing center to the property line of the site proposed for a new center.

C[D]. Program occupancy limits shall be as determined by the state department of corrections.

D[E]. The land use standard to establish maximum resident occupancy at a center is a minimum of 150 square feet of building area per resident, calculated by including all bedroom, kitchen, bathroom, living, recreation and other areas within the facility intended for common use by the residents.

E[F]. A center shall provide one off-street parking space per each full-time staff member, based on the maximum anticipated staffing.

F[G]. Correctional community residential centers structured on the apartment living concept shall adhere to the residential dwelling unit density, minimum lot, minimum yard, maximum lot coverage and maximum building height provisions of the zoning district in which they are located.

G[H]. Refuse containers and facilities shall be enclosed as required by the supplementary district regulations.

H[I.] Landscaping requirements shall conform to those of the underlying zoning district.

(AO No. 95-68(S-1), § 12, 8-8-95)

Section 3. This ordinance shall be effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Chair

ATTEST:

1

2

Municipal Clerk

J:\w G:\zon\_plat\Ordinances\2007\New CCRC (2).DOC

Laid on the Table During  
Public Hearing by fellow Council.

7/1/07 J.C. C

From: bbgarner@alaska.com  
Subject: **Fwd: CCRC ordinance change**  
Date: July 9, 2007 11:04:16 AM AKDT  
1 Attachment, 29.7 KB Save

Begin forwarded message:

**From:** Mark Fish <[fishes2@gci.net](mailto:fishes2@gci.net)>  
**Date:** July 9, 2007 10:28:55 AM AKDT  
**To:** [bbgarner@alaska.com](mailto:bbgarner@alaska.com)  
**Subject:** CCRC ordinance change

#### Airport Heights Community Council Memorandum

DATE: July 9, 2007  
TO: Planning and Zoning Commission  
SUBJECT: 2007-094 An Ordinance Amending AMC Title 21 Regarding Community Correctional Residential Centers

Whereas: The Airport Heights Community Council received no information regarding A.O 2007-94 prior to the June 29 deadline for council comments to Planning and Zoning.

Whereas : A.O. 2007-94 has the potential to significantly impact the Airport Heights Community Council area.

The executive board of AHCC request postponement of action on A.O 2007-94 until, the AHCC has the opportunity to meet and provide an informed collective opinion on this matter.

Mark Fish  
President AHCC





State of Alaska  
Department of  
**Public Safety**

**RECEIVED**

JUL 18 2007

Municipality of Anchorage  
Zoning Division

2007-094

Sarah Palin, Governor  
Walt Monegan, Commissioner

July 16, 2007

Anchorage Planning and Zoning Commission  
PO Box 196650  
Anchorage, AK 99519-6650

Dear Commission:

The Department of Public Safety (DPS) is the state agency charged with providing functions relative to the protection of life, property and wildlife resources. Department members enforce criminal laws, traffic laws and regulations, wildlife laws and regulations, fire laws and regulations, and are additionally responsible for a number of public safety related functions such as search and rescue, court services and criminal justice records. Unlike similar agencies in many other states, the Department of Public Safety is the primary law enforcement and public safety organization for most of the vast geographic area of the state.

We understand that, under this proposal, correctional community residential centers in Anchorage would be allowed in a B3 general business district as a conditional use provided the number of residents did not exceed 30 individuals. Furthermore, the type of residents eligible for placement would be expanded to include felons deemed to not be a danger to the community and that the one-mile distance requirements between these types of facilities would be reduced to 1000 feet or a lesser distance in the discretion of the commission.

The Department of Public Safety has no objection to these proposed amendments. Thank you for the opportunity to submit comments.

Sincerely,

Walt Monegan  
Commissioner

*"Public Safety through Public Service"*

Office of the Commissioner  
5700 E. Tudor Road – Anchorage, AK 99507 – Voice (907) 269-5086 – Fax (907) 269-4543  
Juneau Office – Voice (907) 465-4322 – Fax (907) 465-4362

294