

CITY OF BATAVIA
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**PLAN COMMISSION & ZONING BOARD OF APPEALS
AGENDA**

**Wednesday, March 16, 2016
7:00 PM
City Council Chambers - First Floor**

1. Call To Order
2. Roll Call
3. Items Removed/Added/Changed
4. Approval Of Minutes
 - January 20, 2016, Plan Commission & Zoning Board of Appeals
 - February 3, 2016, Zoning Board of Appeals

Documents: [01-20-16 ZBM.PDF](#), [02-03-16 ZBM.PDF](#)

5. Public Hearing: Conditional Use For A Massage Establishment
Sunshine Massage, 11 East Wilson Street (Yune Zhou, applicant)

Documents: [PC SUNSHINE MASSAGE CU.PDF](#)

6. Public Hearing: Amendment To The Official Zoning Map From R0, Single Family Residential
To POS, Parks & Open Space District
500 & 501 Wind Energy Pass, 502 & 503 Pottawatomie Trail and 427 Ridgelawn
Trail - City of Batavia, Owner and Applicant

Documents: [PCMEMO-SECHART-ZMA-3-3-16.PDF](#)

7. Public Hearing: Amendments To The Text Of The Zoning Code
 - Chapter 2.3: Commercial Districts
 - Chapter 2.5: Mixed Use District
 - Chapter 2.6: Employment Districts
 - Chapter 4.1: Site Regulations
 - Chapter 4.2: Off-Street Parking and Loading Regulations
 - Chapter 4.3: Landscape Regulations
 - Chapter 4.4: Sign Regulations
 - Chapter 6: Use Definitions

Documents: [PC-CODEUPDATEMEMO-030916.PDF](#)

8. Design Review: Proposed Dunkin Donuts Drive-Through At Shell Gas Station
108 North Batavia Avenue. Jon P. Green, PE, CFM, Engineering Resources Associates
Inc., applicant
Continue to April 6, 2016

9. Other Business

10. Adjournment

Plan Commission

Tom Gosselin

Sara Harms

Joan Joseph

Tom LaLonde, Chair

Sue Peterson

Gene Schneider, Vice-Chair

MINUTES
January 20, 2016
PLAN COMMISSION & ZONING BOARD OF APPEALS
City of Batavia

NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Board and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

1. MEETING CALLED TO ORDER

Chair LaLonde called the meeting of the Plan Commission & Zoning Board of Appeals to order at 7:00 p.m.

2. ROLL CALL

Members Present: Tom LaLonde, Chair; Gene Schneider, Vice-Chair; Tom Gosselin, Commissioner; Sara Harms, Commissioner; Joan Joseph, Commissioner; Sue Peterson, Commissioner (arrived 7:04 p.m.)

Members Absent: None

Others Present: Scott Buening, Director of Community Development; Drew Rackow, Planner; Jeff Albertson, Building Commissioner; Joel Strassman, Planning & Zoning Officer; and Cheryl Shimp, Recording Secretary

3. ITEMS REMOVED/ADDED/CHANGED

None

4. APPROVE MEETING MINUTES

Motion: To accept the minutes of the January 6, 2016 Meeting as presented.

Maker: Joseph

Second: Schneider

Voice Vote: 5 Ayes, 0 Nays, 1 Absent. All in Favor. Motion Carried.

5. PUBLIC HEARING: Proposed Dunkin Donuts Drive-Through at Shell Gas Station located at 108 North Batavia Avenue

Motion: To open Public Hearing for Variances & Public Hearing for Conditional Use

Maker: Schneider

Second: Joseph

Voice Vote: 5 Ayes, 0 Nays, 1 Absent. All in Favor. Motion Carried.

The Public Hearing was opened at 7:03 p.m.

Strassman explained that Harry Mehta, operator of the Shell gas station at Batavia Avenue and Houston Street is seeking to add a Dunkin' Donuts franchise in the building and to add a drive through. To

accomplish the proposal, the City Council will need to approve several variances and a conditional use. Additionally, Plan Commission approval of design review is needed.

The property is zoned DMU Downtown Mixed Use, as are all corners of this intersection. The property immediately to the north is designated for residential use in the Comprehensive Plan and is zoned R-2 Two Family Residential; it is improved with a single family residence.

The Zoning Board of Appeals (ZBA) has the responsibility of conducting the public hearing and determining if the findings for approval for each variance have been met. The ZBA must take a narrow view of the proposal – one that is limited to the findings for approval as stated in the Zoning Code. The City Council may take into consideration other factors.

The Findings for Approval for variances as stated in the Zoning Code are as follows:

- A. There are unique circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the Zoning Code would create a hardship or other practical difficulty, as distinguished from a mere inconvenience, and deprive the property owner of property rights enjoyed by other property owners in the same zoning district; and
- B. Such unique circumstances were not created by the current or previous owners or applicant; and
- C. The property cannot yield a reasonable return or be reasonably used for the purpose intended by the Zoning Code under the regulations in the district in which it is located; and
- D. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and
- E. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

There are 2 variances that must be approved by the City Council in order to approve the conditional use for the drive through. The first one is for the lack of separation between the subject property and residential property. Properties with drive throughs must be at least 50 feet from properties designated for residential use in the Comprehensive Plan. The proposed property abuts the residential property to the north. Additionally, drive through aisles need to be at least 100 feet from residentially designated property. Only 50 feet would be provided to the residence to the north.

Except for altering the site for product rebranding, fuel/convenience-type retail has been continuous at this location for many years. While business may increase with the proposed drive through, it is not within the parameters of a variance to grant them solely for the purpose of survivability of a business as the applicant suggests in his submitted material.

Applying the required Findings for Approval for these 2 variances, staff feels that Findings A and B can be met, due to the site's slope. The current business operator acquired the business within the past year or two. Since then, no gas stations have opened in Batavia and one in downtown has ceased selling gas. Staff believes the property has the ability to house a viable a gas station, essentially as has been continuous for many years, therefore Finding C cannot be met. Finding D may be met considering the long-time presence of the former Burger King and Hardee's nonconforming site across Batavia Avenue. Finding E is difficult to meet due to the property being contiguous to residential and the drive through lane being only 50 feet away from the house. While the property-to-property condition is similar to the drive through situation across Batavia Avenue, the distance to the neighboring house is much less, and

there is a public alley located between the properties. Despite proposed landscaping to shield the drive through lane and even if a solid fence or wall would be erected, the lack of distance increases the possibility of the drive through negatively affecting the property to the north. Staff feels Finding E cannot be met.

Since staff believes all findings cannot be met, staff would recommend the ZBA not recommend approval of the variances for these separation distances.

Drive through lanes must be at least 20 feet wide to provide by-pass capability. A variance is requested to provide a minimum 10 foot wide lane. The Code does not specify a minimum width for lanes without bypass capability.

The applicant contends the slope of the site makes it cost-prohibitive to extend the drive through lane further east, and that the proposed aisle width is functional and safe. Other drive through businesses in town lack a by-pass lane. Staff is concerned that vehicle length and driver ability factors will affect this site more than others. Minimal turning area is proposed, and drivers that lack ability or do not obey posted maximum vehicle length limits may get stuck in one of the required 90 degree turns. The 20 foot minimum would provide added turning area.

The property's slope address Findings A and B that can be met, however, staff feels Finding C cannot be met. Having a unique slope, Finding D may be met. Staff feels an instance of a vehicle being stuck in the drive through lane would have minimal lasting impact on the general public, therefore, Finding E can be met.

Since staff believes all findings cannot be met, staff would recommend the ZBA not recommend approval of the aisle width variance.

Canopy edge signage is counted as part of the allowable wall sign area. Multi-colored canopy edges displaying brand identity is signage. Most or all of the allowed wall sign area is already taken by the existing canopy edge treatment. Adding signs to this building's walls requires a variance.

Staff has consistently deemed multi-colored canopy edges displaying brand identity as signage. The applicant suggests this unfairly restricts the amount of signage on the building's walls, resulting in a competitive disadvantage for this property compared to other multi-tenant locations. Requesting a variance to display building wall signage is reasonable, and the requested amount of square footage is also reasonable. The HPC would review the designs of proposed signs. Staff is concerned with adding illumination to the north facing canopy edge as it would affect the residence to the north.

The Batavia Zoning Code's assigning canopy edge sign area to the allowable wall sign area effectively eliminates the opportunity for this site to display effective signage on the building's walls. For this reason, staff believes Findings A and B can be met. Building signage is an important factor in the success of a business and is generally available to all business locations, therefore, Findings C and D can be met. The proposed canopy edge changes visually will be minimal and would not affect others, except for the proposed illuminated bar on the north canopy edge. If this were non-illuminated, Finding E could be met.

With a ZBA condition of no added illuminated elements to the north canopy edge, all Findings can be met, and staff would recommend approval of the requested wall sign variance.

Monument signs are limited to 6 feet in height and 32 square feet. The existing sign's height of approximately 26 feet and area of approximately 83 square feet are nonconforming. The variance request is to increase the sign area by approximately 26.5 square feet, by adding an illuminated Dunkin' Donuts panel below the existing sign panels. The applicant states that the sign is necessary due to corporate requirements and would identify the additional tenant. Sign height would not increase. The added sign would help with increased competition from the additional Randall Road gas stations.

Staff recognizes the importance of providing tenant identification on freestanding signs. Staff feels the existing sign is overly tall and out of place in downtown Batavia. While added sign area would help the new business and allow the existing Shell messages to remain, the sign should be lowered in height to 8 feet, the allowed height for fuelling facility signs. Lowering the sign to offset the impact of added sign area may be a better compromise than reducing the amount of Shell's sign area.

Despite staff supporting additional sign area, staff believes that Findings A, B, C, and D cannot be met. Additional sign area would not result in a significant change, therefore Finding E can be met. Lowering the sign strengthens this opinion.

Since staff believes all findings cannot be met, staff would recommend the ZBA not recommend approval of the sign height and area variances. Staff encourages the ZBA to consider noting for the record that if the City Council feels adding sign area is appropriate, the City Council should require the sign to be lowered to not exceed 8 feet.

Sign element projections are limited to 2 inches from the canopy edge. The applicant states that Dunkin's corporate requirements for signage would project by more than allowed. There would be no negative effect by the added projection. The City's 2 inch limit is arbitrary and projection by an additional 2 inches would be similar to signage other gas stations have.

Staff feels that the 2 inch projection can be limiting and feels the requested projection is reasonable. Similar to the wall sign variance, staff feels the projection for the north canopy edge should not include any new illuminated sign elements.

With a ZBA condition of no added illuminated elements to the north canopy edge, all Findings can be met, and staff would recommend approval of the sign projection variance.

Ninety (90) degree parking spaces must be a minimum of 19 feet long and parallel spaces must be 10 feet wide. The proposed parking space dimensions replicate the existing dimensions and would be applied to the added parking along the south side of the site. The applicant notes these dimensions have functioned for years without incident. The addition of the drive through would not affect the parking spaces.

Staff feels there will be increased site traffic and vehicle maneuvering with a drive through. Staff is concerned about site maneuverability and reducing parking geometry exacerbates this concern. The south spaces may be widened, reducing potential conflicts. This would eliminate the need for a variance, but could trigger the need for an additional retaining wall due to the property's slope.

The slope along Houston is a limiting factor. The other reduced geometry would simply match what exists - nonconforming conditions. Findings A, B, C, and D may be met. The effect to the "public welfare in general" could exclude persons on this property being affected by the proposed changes, therefore, there may be no adverse impact elsewhere. Finding E can be met. Since staff believes all

findings can be met, staff would recommend the ZBA recommend approval of the parking geometry variances with the conditions that:

1. Additional landscaping be added adjacent to the north parking spaces;
2. A curb be added to the west end of the north parking area, similar to what's proposed for the south parking with landscaping; and
3. That the area south and west of the west end curb for the new south parking spaces be suitably landscaped.

Thirteen (13) parking spaces are required. The applicant notes that 12 spaces would be provided with one space landbanked. Landbanking parking does not require a variance; it may be sought through an administrative use approval. Staff feels that since the landbanked parking space would remain paved and not be landscaped, the space simply should be striped as shown. Staff may approve an application for landbanked parking if that area was landscaped.

The applicant notes that the required amount of parking is excessive. If the ZBA feels fewer parking spaces would be acceptable, this could allow for increased circulation area and reduce potential conflicts. The ZBA can continue consideration of this variance to allow a revised proposal to be submitted. Staff encourages exploration of solutions to this and other noted issues.

Staff feels unique circumstances have not yet been demonstrated applicable to the required Findings. Since staff believes all findings cannot be met, staff would recommend the ZBA not recommend approval of the parking supply variance.

The Zoning Code requires landscaping within 50 feet of Batavia Avenue. The addition of the south parking encroaches into this area. The applicant notes the impossibility of providing additional parking elsewhere. Parking in this area is common in the vicinity. The location of these proposed spaces does not alter the function of the site.

Staff acknowledges the limited opportunities to locate additional parking. Reducing parking in front of the store forces the parking to go elsewhere. Staff Findings A, B, C, D, and E may be met. Staff would recommend approval of this variance, subject to the area south and west of the west end curb for the south parking spaces be suitably landscaped, including a tree.

The Zoning Code prohibits wheel stops. Wheel stops are proposed for parking spaces along the storefront. The applicant wishes to retain the existing walkway space along the storefront without vehicle overhang. Wheel stops can provide for this space. Pedestrian convenience and safety would be enhanced.

Staff encourages pedestrian safety. Vehicles overhanging the walkway can limit safe passage. Little space exists to lengthen parking or widen the existing walkway. Having these existing conditions, the situation warrants consideration of code relief. Staff feels all Findings A-E can be met, therefore, staff would recommend approval of this variance.

The Plan Commission must review the requested conditional use. While drive through businesses generally is less desirable in downtown, this property is at the edge of the DMU District and is already designed as an automobile-oriented site. Staff agrees with the submitted Traffic Impact Analysis regarding traffic generation, but feels the limited front area space for maneuverability among gas, convenience store, and drive through customers, coupled with parking essentially surrounding this area

will challenge drivers to get to and from the various site facilities. At times of high demand this difficulty may extend to vehicles trying to enter the site, thus potentially affecting traffic on Batavia Avenue.

A requirement of the conditional use is that drive through business properties must be at least 50 feet away from properties designated for residential use in the Comprehensive Plan and drive through aisles must be at least 100 feet from away from residentially designated property.

The Plan Commission must consider conditional uses in light of the Findings Required for Approval. These Findings are:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;
2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council;
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

Unlike how the ZBA must apply its Findings, the Commission does not need to find in the affirmative for any of the Findings in order to recommend approval; the Commission must simply reach conclusions of whether each Finding has been met.

For Finding #1, staff feels the residential property immediately to the north and its inhabitants may potentially be negatively affected by the increased traffic being brought closer to the residence. While proposed landscaping can provide some buffering, and adding a solid fence or wall can increase screening, neither would work as well as distance. Staff believes Finding #1 cannot be met.

For Finding #2, staff believes the drive through business, with approved variances requiring added buffering features such as more landscaping and a wall along the north property line, is aligned with Comprehensive purposes of enhancing commerce in the downtown. The use would, however, be contrary to principles of providing transitions between non-residential and residential uses. In balance, staff believes Finding #2 cannot be met.

For Finding #3, with approved variances as conditioned, the use would conform generally with applicable codes and requirements. Staff believes Finding #3 can be met.

For Finding #4, as stated above most nearby properties would not be unreasonably affected, but the property immediately to the north, being single-family residential, could be. In balance, staff believes Finding #4 cannot be met.

The Commission must also conduct the design review. Due to the number of variances needed and staff's beliefs of the inability to meet the required Findings for variances and conditional use, staff cannot support the design review. Several positive site changes are proposed and itemized in the staff report to the Commission. Additional details, however, are needed.

Refuse enclosures specifications comply with Code, but the site plan must include elevations. The enclosure walls should mimic the building's finishes. Design elevations for the proposed retaining walls need to be provided, along with the specified corrugated metal screening added to the top of the wall. The HPC would review the design of these too. The site plan notes the City of Batavia to relocate the Batavia Avenue streetlight; this specification must be removed from the plan.

Staff feels the proposed patio area would be enhanced by a stair connection to the Houston Street sidewalk. The Commission may consider the merits of this feature. Other revisions to the site and landscape plans would be needed to reflect conditions of variance and conditional use approvals. The Fire Department has reviewed the plan and auto-turn, and feels what is proposed would be adequate. Specific turning radii would need to be provided with the final site plan/engineering.

Design Review consideration involves the Commission determining the following Findings for Approval:

- A. The project is consistent with applicable design guidelines.
- B. The project conforms to the Comprehensive Plan, and specifically to the Land Use, Urban Design, and Environment Elements.
- C. The project is consistent with all applicable provisions of the Zoning Code.
- D. The project is compatible with adjacent and nearby development.
- E. The project design provides for safe and efficient provision of public services.

Staff recommends the Commission and ZBA simultaneously conduct the open meeting for the design review and the public hearing for the variances and conditional use. If the Commission and/or ZBA feel that it would like to continue the hearing to allow for revisions to be made to any part of the proposal, the Commission and ZBA should continue the hearing for variances and conditional use, and continue the design review to a date specific. Only after all information has been offered and speakers have spoken, the Commission and ZBA should close the hearing.

The ZBA must act on the requested variances before Plan Commission action. The ZBA must first reach its findings for each variance. If the ZBA can find in the affirmative for each variance, the ZBA can recommend City Council approval of those variances. If the ZBA cannot find in the affirmative for each of the Findings, the ZBA cannot recommend approval of those variances. As an alternative to taking action now, the ZBA may continue the public hearing for one or all of the variances to a specific date and provide direction to staff and the applicant for design modifications.

Staff recommendations for each variance are based on staff's determination of whether Findings can be made in the affirmative.

1. Section 4.205.E – to allow a drive through business less than 50 from property designated for residential use in the Comprehensive Plan. Staff Recommends Denial
2. Section 4.506 – to allow a drive through aisle to be at least 100 feet from away from residentially designated property. Staff Recommends Denial
3. Section 4.209.A.1 – to allow a drive through lane less than 20 feet wide. Staff Recommends Denial
4. Section 4.407.B.1.e(2) – to allow an increase in wall sign area up to an additional 41 square feet on the south wall and up to 46 square feet on the west wall. Staff Recommends Approval with the condition of no added illuminated elements to the north canopy edge

5. Section 4.407.B.2a(3) – to allow a monument sign area in excess of the allowed 32 square feet by adding approximately 27 square feet to the existing sign – Staff Recommends Denial
6. Section 4.407.B.2.f(3) – to allow canopy sign elements to project more than 2 inches from the canopy edge. Staff Recommends Approval with the condition of no added illuminated elements to the north canopy edge
7. Table 4.205.A – to allow parallel parking stalls to be 9 feet wide and perpendicular spaces to be 18 feet long. Staff Recommends Approval, with the following conditions:
 - Additional landscaping be added adjacent to the north parking spaces, with design review approval
 - A curb be added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk, similar to what’s proposed for the south parking and inside this area should be suitable landscaping, including a tree, with design review approval; and
 - That the area south and west of the west end curb for the new south parking spaces be suitably landscaped, including a tree, with design review approval.
8. Table 4.204 – to allow 12 parking spaces where 13 are required. Staff Recommends Denial
9. Zoning Code Section 3.303.B – to omit landscaping within 50 feet of Batavia Avenue – Staff Recommends Approval subject to the area south and west of the west end curb for the new south parking spaces be suitably landscaped, including a tree, with design review approval
10. Section 4.203.Q to allow wheel stops – Staff Recommends Approval

For the conditional use, the Commission must open and conduct the public hearing the same as the ZBA hearing and reach conclusions for each Finding. As with the variances, the Commission may continue the hearing. Since staff recommends denial of the 2 variances needed for the distance separating residential from the drive through, staff recommends denial of the conditional use

For the design review, the Commission should consider and discuss the merits of the proposed plan. If the Commission wishes to take action, it must first reach conclusions for each Finding. Due to the number of design items yet to be addressed and needed revisions, many due to potential changes with variance and/or conditional use approval, staff recommends a continuance.

At this time, Chair LaLonde swore in audience members wishing to give testimony.

Steve Vasilion, Vasilion Architects – Introduced all team members involved in the proposal. Vasilion stated that there is clearly a viability issue on this site, having had 4 owners within the last 5 years. At the peak of gasoline operations, this site sold approximately 150,000 gallons of fuel per month. Currently the site is experiencing between 50,000 and 60,000 gallons per month. Vasilion reported this is due to the creation and development of the Randall Road corridor, which takes traffic away from the downtown area. He believes this is a huge factor and is puzzled that survivability of a business cannot be considered. Every gas station within the City offers some kind of supplementary service in order to be viable. The applicant is looking to put \$700,000 to \$800,000 into this site for upgrades and improvements. This is also the applicant’s one and only business. Without the drive-through there is no Dunkin’ Donuts and without Dunkin’ Donuts there won’t be a viable business. The increase in having Dunkin’ Donuts will not return traffic to the 150,000 gallons of fuel sold per month level. This site has supported much heavier traffic. Route 31 has approximately 16,000 vehicles a day traversing it, which dwarfs the impact this proposal. Vasilion said that he was troubled by the fact that the presence of a canopy, regardless of how it is decorated, is still considered signage in the Zoning Code and he finds this discouraging to any business. He

appreciates that Staff finds the signage request appropriate, however, encourages the code should be revisited and possibly changed. The monument sign issue didn't mention that the current sign predates the current 3-tier criteria for establishing building signs. Now Staff wants to change the sign. In 2012, the nearly exact proposal for signage revision was approved. Why was it okay in 2012 to do it but not now? Why is it that a pre-existing sign that works very well now needs to be removed in order to add additional signage (Dunkin' Donuts) to it. There is a perfectly functioning sign that Staff wants to take down. Vasilion noted that the applicant has not come to the City asking for money. Everything that is being done is being funded by the owner. The amount of money to remove the sign and replace with a smaller sign is counter-productive to the challenges that a small businessman faces when trying to improve to improve his site and make it viable. The current proposal includes outdoor seating and a bike rack area. Amenities the applicant has voluntarily included to tie in with the bike and pedestrian traffic from Houston Street. The cost of the sign change will make these improvements impossible and creates an unrealistic hardship. He appreciates that Staff is supportive of the canopy edge treatment and parking stall dimensions and landscaping improvements. Vasilion stated that the original plan submitted had 13 parking stalls (as required) and it was at the recommendation of the City that it be changed to 12 stalls with 1 land banked in order to improve circulation on the site. Now, after the applicant compiled, Staff has rejected this proposal. As such, the applicant will go back to the original plan and keep the 13 parking stalls, which would not require a variance. Applicant is fine with the landscaping at Batavia Avenue, curbing and wheel stops along the front of the building. Positive improvements to the site include: updating the building elevations all the way around; repainting and updating of the plain concrete block walls; lighting improvements; the east and south elevations of the project will be improved; a wider sidewalk will be created along Batavia Avenue to function as an extension of the bike/walk; removal of all the unpleasant planting materials and providing real landscaping; the current refuse enclosure is unsightly and will be replaced with a masonry with lockable gates and the applicant has agreed to provide a curb along Route 31 separating the gas pumping area from the sidewalk. Vasilion noted that the applicant has made several revisions based on Staff's recommendations to include concrete stamping on the retaining walls to mimic limestone. He believes there is plenty of detail provided to warrant a vote this evening and would like to get a "thumbs up or thumbs down" in order to move on.

Jon Green, President Engineering Resource Associates, Warrenville, Illinois – Green stated that he prepared the site survey and civil engineering drawings for this project. He stated that the existing site could comply with fewer variances if it were starting from scratch. There are existing, natural topographical features that are unique to this part of Batavia. The property slopes off, or falls off, approximately 15 to 20 feet towards the river. The \$2.4M Houston Street project is to the south and believes when this project is complete, will be a nice welcome and enhancement to Batavia or even an extension of the Streetscape project. The traffic circulation patterns will remain similar to what is current with the 2 main curb cuts on Route 31 remaining. Traffic engineers and traffic studies have been completed to show that circulation will be adequate for both the drive-through and the fueling operations. The project further reviewed first responders needs, which were approved by the Fire Chief. Although there are some parking stall conflicts with the stalls on the north side of the property with concerns of fuel trucks being able to turn around. Green noted that these stalls are not new to the site and fuel trucks have been able to maneuver through the site in the past. The applicant has, however, agreed to sign the stalls in question as employee only parking stalls. This would allow, if a conflict were to arise, the employee to move their vehicle. The applicant has also

agreed to have fuel deliveries during off peak hours. Green noted that they have worked over the past 8 to 12 months with Staff and with the experts on the team and have located the ordering board on the south side of the building away from the residential property. This should alleviate any concerns of noise. The pick-up window will be located on the north side of the east face of the building. With an office building to the east of this site, there shouldn't be any concerns for noise and circulation due to that orientation. The retaining walls to the rear and south of the site will be rebuilt. The existing concrete wall will be removed and pushed out approximately 5-6 feet to the east. The existing pavement on the north side of the building is already 16 feet north of the existing building and only about 2-3 feet will be added. Although the existing pavement of 16 feet would be adequate the studies have indicated that additional space would make traversing this area easier. The retaining walls will include a screening area on the top of the wall extending up 36-40 inches to screen any headlights, including larger vehicles such as a Ford F150 Pickup. An overhead bar or limiting size bar at the entrance to the drive-through will limit any large commercial trucks from using the drive-through, which is consistent to what is already being used throughout the City. The refuse area will be relocated to the north and although it will be smaller, it will still be able to adequately service the property owner needs. Additional landscaping will be added along the north side of the property to supplement the current fence. The relocation of the refuse area will provide better screening and visual enhancement to the property. The front elevation will be flattened out and will provide a handicapped stall to include striping and a ramp to comply with ADA standards. Green stated that once the landscaping is improved and the outdoor seating is complete, this will provide a better scenic overlook off the south face of the building. This will allow residents to dine outside and take advantage of the new Houston Street gateway. The traffic analysis showed adequate parking for the site. Some of the fuel bays may also offer additional parking or vehicle storage area. There are currently paved areas on the north and south ends of the site that will be striped to code and show off the proposed landscaping. The property owner, as well as members of the team, have reached out to the neighbors to the north as well as other residents in the area and have submitted a petition in support of the project. Although many of the items on the site have been there for many years and are grandfathered in, the capital improvements of this project has the potential to expand the tax base back to 2005-2006 levels. Green noted that they are agreeable to many of the recommended changes and encourages a vote. They need a recommendation one way or the other in order to move forward. Expect that this project should add 12-15 additional jobs. There is a snow plow removal plan and if necessary, have the snow hauled off premises. Green space along Houston Street and to the north of the property will be utilized for snow removal. Storm water improvements will include additional catch basins and connection to the recent Houston Street infrastructure improvements.

Joseph Kohn, Parent Petroleum, St. Charles, Illinois – Stated he is the vendor for the fuel supply for this business and they provide fuel to over 300 gas stations within the Chicagoland area. Parent Petroleum became involved with this business approximately 2 years ago when it was sold by Gas Mart. When they first became involved, they noted that the site was built poorly and was run poorly generally because the owner/operator was interested more in making the lease payments than making a successful business. Kohn stated that Parent Petroleum is a strong support of the small business. Every one of their customers is a small business. When they saw the project being branded Shell, they were relieved because being based in St. Charles, they want the suburb business. They have many prime locations on Randall Road and they want to see the suburbs come back to life and succeed especially the Randall Road and Route 31 corridors. He believes that the

success of the Randall Road corridor has taken away from that small business feel. One of the most frustrating things they see in their business going forward is the fact of joint ventures of business such as Circle K and Shell or the large Speedways. The one consistency seen in these ventures are the large sites with multiple profit centers. The days of a 1000 sq. foot convenience store with 3 or 4 pumps outside does not work in the suburbs. It works in the inter-city neighborhoods of Chicago, but not in the suburbs. There is too much competition and too many choices. When Harry (Mehta) was able to buy the property from the 2 previous owners, they saw an individual who knew how to operate a convenience store and what it would take to get it to its full potential. Currently, the potential of the site has maxed out and it cannot go any further. Dunkin' Donuts is an opportunity to try to increase the business, increase the small business traffic and essentially improve the business in the downtown Batavia area. Kohn noted that they brand a lot of gas stations and they just branded a station in the historic district of St. Charles that had a similar issue with the canopy. It is a backlit canopy, which means there is no light which intrudes out. It only highlights and shines a little bit of a yellow color. If the members would like to see an example of this lighting, Kohn invited them to the location at Fourth Street and Main in St. Charles. Kohn thanked everyone for their time.

Jim Duerr, Dunkin' Donuts – Stated that Harry (Mehta) approached them about the site. One of the reasons they (Dunkin' Donuts) is drawn to the site is that there is going to be a significant amount of money into improvements. Dunkin' Donuts has spent in excess of \$500,000 before upgrading a site and interior with all the equipment to do the buildup. Dunkin' Donuts believes they have the potential to generate an estimated \$1.2M in sales once this store is stabilized. They are proud to be part of this development and working with Harry. They have worked with landlords who make no improvements to their property.

Tom Brown stated that he has lived in the property to the north of this site since September 2011 and rents from the owner, Jim Warwick. Since they have lived here, there have been 3 (gas station) owners. Brown stated that he and his wife love downtown Batavia and take advantage of everything they can. As long as Harry (Mehta) has been the owner, he has been a good neighbor. Mr. Brown stated he has had an opportunity to read the plan and it sounds like a good plan. As a tenant, however, he would like to point out (fan of Dunkin' Donuts) some concerns such as when they first moved in, the hours of operation were from 6 a.m. to 10 p.m. Just before the previous owner left, the hours of operation were from 4:30 a.m. to midnight. He is concerned if these hours are going to remain, and if it will be an all night drive-thru. He is unsure if there are any ordinances governing this. There has been talk about the deliveries being done off-hours. The garbage is picked up around 5 a.m., Coke delivers at 5 a.m., gas may be delivered at any time. Yesterday (01/19/16) it was 6 p.m. He is concerned about deliveries and the fuel trucks being able to turn. What the plans don't show is that the fuel trucks don't actually pull in and turn. It pulls in and parks to unload fuel. It pulls up to the sidewalk and in order for it to leave, it has to backup and when it turns, it utilizes all the parking spaces. If there are vehicles parked in these spaces, the fuel truck has to wait. Sometimes, the fuel trucks back in off of Route 31. When this occurs, there is a backup of traffic on Route 31 from McKee to Houston. There is also a school bus drop off next door. There is pedestrian traffic in addition to whatever traffic will be added. He requested more information about the trees being proposed. Basic concerns are deliveries during the day and operating hours. He doesn't want to see 4:30 a.m. to midnight with deliveries all day and night. The garbage pickup and Coke deliveries are actually 23 feet from Brown's bedroom and with a garbage enclosure half the size, this could result in additional pickups during the week. He inquired if this could mean 2 or 3

pickups during the week. Inquired where 12-15 additional employees would be parking. He believes that with the more fuel efficient vehicles, this can also be a contributing factor to the drop off in fuel consumption. Voiced concerns about the trees being used in the landscaping again. Noted that they have a patio out back and enjoy sitting out there in the summertime, which is right along the property line. He inquired if the vacuum machine would remain. (It was noted that this machine will remain).

Harry Mehta, owner/operator of the Shell gas station, noted that Mrs. Linda Brown worked for him for approximately a year. He further noted that he employs residents of Batavia. He stated that if anyone had any questions about the site plan, he would be more than happy to go over everything with them. Mehta noted that not all of the 12-15 employees would be working at the same time. At peak times, they could have as many as 4-6. Currently there are 2 employees working at any given time. Mehta has requested that deliveries be made after 10 a.m. (after the morning rush). He noted that this station has been in business for over 30 years and have been getting fuel deliveries at all times. Mehta has requested that Parent Petroleum conduct fuel deliveries between the hours of 10 p.m. and 12 a.m. They will monitor the situation to determine if this is an appropriate time frame.

LaLonde inquired about additional refuse pickup times. Mehta stated that additional pickups may be necessary; it will depend on the size of the container. A smaller container is being proposed to fit in a smaller enclosure.

LaLonde inquired about landscaping details. Green stated that the proposed landscaping supplements the existing green-wall type landscaping that currently exists along the north property line. The first 2 stalls will have some arbor type screening. Five (5) additional arbor binding type plant materials will be used in front of the refuse enclosure. Immediately behind the refuse area and extending along the balance of the north property line are 4 more proposed trees. These will be planted to the City standards so they have an opportunity to mature and grow. Discussion continued on the plantings. It was noted that the fence is owned by the neighbor to the north. The area around the order board and along Houston Street is designed to enhance the newly constructed bike lane. Green stated that they have agreed to construct a new retaining wall with a concrete stamped pattern and will provide a means for public art to be displayed on the wall. Felt this was a nice feature as a welcome to Houston Street, welcome to Batavia, you have arrived. Green noted that the outdoor seating is located on the south/east corner of the building, north of the drive-thru. It is about 10 feet wide and 18-20 feet long. The bike rack is just adjacent to the outdoor seating. Curbing and decorative fencing will be added for safety. There are a set of double glass doors that will provide direct access to the outdoor seating. Customers will not have to traverse around any of the drive-thru lane to get to the seating area. Green noted they want to be a bicycle and pedestrian friendly business. Discussion continued on the size of the refuse enclosure and the amount of pickups that will be required.

Jim Warwick, owner/landlord 118 N. Batavia Avenue, stated he was completely opposed to the building of a Dunkin' Donuts drive-thru for a variety of reasons:

- 1) The tenants' bedrooms all front the gas station. The drive-thru will create more light, noise, traffic and pollution for his 3 tenants. The current owner has extended his business hours without consulting them, which affects his tenants' ability to sleep. He was informed by the owner that should they get the Dunkin' Donuts drive-thru, the hours of operation will

increased with the business opening even earlier (4:30 a.m.) and doesn't believe the owner will close the drive-thru at 8:30 p.m. He stated his tenants have the right to sleep in peace and quiet and darkness, and noted he bought this property because the business closed at 9 p.m. and opened at 6 a.m.

- 2) The refuse will be moved from the back of the property to the middle of the property along the fence line and only 5 feet from the property line. He is unsure if this meets City Code. He is concerned that the new refuse container will be smaller than the current container and that there will be an increase in its use and believes it will either be built bigger than shown or have to be emptied all the time. The dumpster will be moved from entire shade to full sunlight. The food products will attract raccoons, opossums, rats, mice, bugs, etc. The tenants will have to put up with the smell of rotting food and grease in the hot sun. The enclosure will be lined up with the property's backyard and will be seen over the top of the fence. The smells will make it unpleasant for the first floor tenants to enjoy their patio area, barbeque and gardening that they have been accustomed to. The second floor tenant, with a spectacular view of the Fox River and historic buildings, will have to see the top of the dumpster all the time. The smells will make it unpleasant to enjoy a deck party. The garbage trucks doing pickup will be extremely noisy right next to the tenant's bedrooms. With a dumpster located right along the fence, no one will want to rent his apartments any longer. His apartments will go from desired, to undesirable.
- 3) The owner plans to build 3 parking spaces along his fence line, which will be located right next to the tenant's bedrooms. Not only will it be an invasion of privacy, there will be noise from the cars turning on and off and radios.
- 4) Cars will leave the drive-thru from the back of the store and build up speed while driving along the fence. His fence, built for privacy, is built all the way to the sidewalk. People walking or cycling are going to get hurt or killed traveling from his property line to the Shell station because cars won't see them approaching from around the fence.
- 5) If the owner wishes a Dunkin' Donuts business, he should be encouraged to build it on the vacant Hardee's property. It has all the infrastructure needed.
- 6) The property north of the Hardee's property is a business. The property north of the Shell is a residence. A business the size of a Dunkin' Donuts should not be allowed next to a residence.
- 7) The Shell station is planned for 12 spaces plus 1 handicapped space. He is concerned about where the snow will be stored. How are the plows going to get around the drive-thru? He is concerned the 6 parking spaces on the side will become giant snow mounds. He is worried the decorative fence will be destroyed from snow plows and storage. Employees will have to park in the customer spots when the other spots are filled with snow. There is not enough parking. He is concerned about big trucks parking in front of his 2-flat, illegally, and making noise.
- 8) He has owned the property for 10 years. The owner of the Shell gas station has only been there for 2 years. This should matter for something.
- 9) The proposed concept plan makes the 2-flat look tiny and insignificant. This is deceptive. His property should be shown in full detail. The bedrooms, 2nd floor deck and 1st floor patio are not shown on these plans.
- 10) He encourages the members of the committee to take a tour of his property before any decisions are made, and doesn't believe this project has been thought through and stated that negatives far out way the positives. Thanked everyone for their time.

Angela Febles, 212 N. Van Buren Street, stated she was new to Batavia and commended the owner for the investment in the business and the efforts they are making to improve their property. However, there is a bit of a conflict with the neighbors next door. She appreciates the opportunity to speak. From an environmental aspect, she has a son with asthma, and is concerned with the additional traffic. This is an area where individuals are encouraged to walk and exercise and this proposal is looking to increase traffic. She is unaware of any other downtown areas that have a gas station so close to residential. She wants the Committee to consider the aesthetics and the population of the community that would support this proposal.

Duerr noted that Dunkin' Donuts does not build walk-up only stores in this area. Walk-in only locations are located at train stations, downtown Chicago CTA stops, etc. They don't work in the suburbs. The current desire is for a drive-thru facility and 2/3 of their business is done by way of a drive-thru. If there is no drive-thru, there will not be a Dunkin' Donuts. It was further noted that donuts would be delivered once a day to this location. There would not be any donut making at this site. Duerr reported that Dunkin' Donuts has no intention of having poor sanitation on the site. If additional pickups are required as business increases, this will be done. They are consistently inspected at all their locations. Employees are instructed in proper sanitation. Green stated that they are open to other locations for the refuse. He further noted that it will be an upgraded and masonry enclosed structure.

Mehta stated that they have made changes to the plan to help buffer the noise, parking is as it has always been, safety is always a major concern, the site isn't making enough money as it is, and he is willing to work with the site plan, etc.

Discussion continued about the site always being difficult, especially with the topography, and businesses not doing well on this site; traffic concerns; the applicant only visioning 2 variances and there now being 9; working constructively with everyone involved; what it takes for this site to be viable; pushing the retaining wall further out; snow removal plan; drive-thru designed to standards; single lane drive-thru; etc.

Don Gregory, 124 N. Batavia Avenue, voiced concerns about the trash that is consistently left in his yard from patrons of the Shell. Patrons get drinks, candy, and cigarettes from the convenience store and leave that trash in his yard as they walk by. This includes a number of cigarette butts and candy wrappers. Burger King promised to keep the area clean, but it didn't happen. Smell of gasoline and noise from Batavia Avenue is a great concern. Batavia Avenue is so noisy, they cannot use their front porch.

Motion: To close the public hearing

Maker: Joseph

Second: Harms

Voice Vote: 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

The public hearing was closed at 9:12 p.m.

Motion: To conclude the Findings for the variance to Section 4.205.E – to allow a drive through business less than 50 feet from property designated for residential use as recommended by Staff as follows: Findings A, B & D can be met and Findings C & E cannot be met.

Maker: Schneider

Second: Harms

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To recommend to City Council approval of the variance to Section 4.205.E – to allow a drive through business less than 50 feet from property designated for residential use.

Maker: Schneider

Second: Joseph

Roll Call: Gosselin – Nay, Harms – Nay, Joseph – Nay, LaLonde – Nay, Peterson – Nay, Schneider – Nay. 0 Ayes, 6 Nays, 0 Absent. Motion failed.

Motion: To conclude the Findings for the variance to Section 4.506 – to allow a drive through aisle to be at least 100 feet away from residentially designated property – as recommended by Staff as follows: Findings A, B & D can be met and Findings C & E cannot be met.

Maker: Joseph

Second: Peterson

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To recommend to City Council approval of the variance to Section 4.506 – to allow a drive through aisle to be at least 100 feet away from residentially designated property.

Maker: Peterson

Second: Joseph

Roll Call: Gosselin – Nay, Harms – Nay, Joseph – Nay, LaLonde – Nay, Peterson – Nay, Schneider – Nay. 0 Ayes, 6 Nays, 0 Absent. Motion failed.

Motion: To conclude the Findings for the variance to Section 4.209.A.1 – to allow a drive through lane less than 20 feet wide – as recommended by Staff as follows: Findings A, B, D & E can be met and Finding C cannot be met.

Maker: Joseph

Second: Peterson

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Nay, Peterson – Aye, Schneider – Aye. 5 Ayes, 1 Nays, 0 Absent. Motion carried.

Motion: To recommend to City Council approval of the variance to Section 4.209.A.1 – to allow a drive through lane less than 20 feet wide.

Maker: Joseph

Second: Peterson

Roll Call: Gosselin – Nay, Harms – Nay, Joseph – Nay, LaLonde – Aye, Peterson – Nay, Schneider – Nay. 1 Aye, 5 Nays, 0 Absent. Motion failed.

Motion: To conclude the Findings for the variance to Section 4.407.B.1.e(2) – to allow an increase in wall sign area up to an additional 41 sq ft on the south wall and up to 46 sq ft on the west wall with condition of no added illuminated elements to the north canopy edge – as recommended by Staff as follows: Findings A, B, C, D & E can be met.

Maker: Joseph

Second: Peterson

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To recommend to City Council approval of the variance to Section 4.407.B.1.e(2) – to allow an increase in wall sign area up to an additional 41 sq ft on the south wall and up to 46 sq ft on the west wall subject to the condition of no added illuminated elements to the north canopy edge.

Maker: Joseph

Second: Schneider

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To conclude the Findings for the variance to Section 4.407.B.2.a(3) – to allow a monument sign area in excess of the allowed 32 sq ft by adding approximately 27 sq ft to existing sign – as recommended by Staff as follows: Findings A, B, C & D cannot be met and Finding E can be met.

Maker: Joseph

Second: Peterson

Roll Call: Gosselin – Aye, Harms – Nay, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 5 Ayes, 1 Nays, 0 Absent. Motion carried.

Motion: To recommend to City Council approval of the variance to Section 4.407.B.2.a(3) – to allow a monument sign area in excess of the allowed 32 sq ft by adding approximately 27 sq ft to existing sign.

Maker: Joseph

Second: Gosselin

Roll Call: Gosselin – Nay, Harms – Nay, Joseph – Nay, LaLonde – Nay, Peterson – Nay, Schneider – Nay. 0 Aye, 6 Nays, 0 Absent. Motion failed.

Consensus of the members was that if the City Council feels additional sign area is appropriate, the Council should require the sign to be lowered to not exceed 8 feet to allow more sign area. The sign would be set back to allow for visibility of Batavia Avenue.

Motion: To conclude the Findings for the variance to Section 4.407.B.2.f(3) – to allow canopy sign elements to project more than 2 inches from the canopy edge with the

condition of no added illuminated elements to the north canopy – as recommended by Staff as follows: Findings A, B, C, D & E can be met.

Maker: Joseph

Second: Peterson

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To recommend to City Council approval of the variance to Section 4.407.B.2.f(3) – to allow canopy sign elements to project more than 2 inches from the canopy edge with the condition of no added illuminated elements to the north canopy.

Maker: Joseph

Second: Gosselin

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To conclude the Findings for the variance to Table 4.205.A – to allow parallel parking stalls to be 9 ft wide and perpendicular spaces to be 18 ft long – as recommended by Staff as follows: Findings A, B, C, D & E can be met with the following conditions: 1) Additional landscaping be added adjacent to the north parking spaces; 2) A curb be added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk; 3) That the area south and west of the west end curb for the new south parking spaces be suitably landscaped.

Maker: Joseph

Second: Peterson

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To recommend to City Council approval of the variance to Table 4.205.A – to allow parallel parking stalls to be 9 ft wide and perpendicular spaces to be 18 ft long with the following conditions: 1) Additional landscaping be added adjacent to the north parking spaces; 2) A curb be added to the west end of the north parking area, extending west to meet the Batavia Avenue sidewalk; 3) That the area south and west of the west end curb for the new south parking spaces be suitably landscaped.

Maker: Peterson

Second: Schneider

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Jon Green, President Engineering Resource Associates, Warrenville, Illinois, formally withdrew the applicant's request for a variance to Table 4.204 – to allow 12 parking spaces where 13 are required.

Motion: To conclude the Findings for the variance to Section 3.303.B – to omit landscaping within 50 ft of Batavia Avenue with the condition that the area south and west of the west end curb for the new south parking spaces be suitably landscaped, including a

tree, with design review approval – as recommended by Staff as follows: Findings A, B, C, D & E can be met.

Maker: Joseph

Second: Gosselin

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To recommend to City Council approval of the variance to Section 3.303.B – to omit landscaping within 50 ft of Batavia Avenue with the condition that the area south and west of the west end curb for the new south parking spaces be suitably landscaped, including a tree, with design review approval.

Maker: Peterson

Second: Gosselin

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To conclude the Findings for the variance to Section 4.203.Q – to allow wheel stops – as recommended by Staff as follows: Findings A, B, C, D & E can be met.

Maker: Joseph

Second: Gosselin

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Motion: To recommend to City Council approval of the variance to Section 4.203.Q – to allow wheel stops.

Maker: Joseph

Second: Gosselin

Roll Call: Gosselin – Aye, Harms – Aye, Joseph – Aye, LaLonde – Aye, Peterson – Aye, Schneider – Aye. 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

Strassman noted that the public hearing is closed so the Members would have to consider the Conditional Use as presented. Discussion continued on options available for the Conditional Use as well as Design Review. The following Members noted that they could find in favor of this Plan and/or not necessarily against it with some additional improvements: Gosselin & LaLonde. The remaining Members (Joseph, Harms, Peterson, Schneider) were not in favor. Discussion continued on whether or not to send the Plan back to the applicant or move forward with the conditional use.

Motion: To conclude the Findings for the Conditional Use to allow a drive through on this site as presented by Staff, Findings 1, 2, and 4 cannot be met and Finding 3 can be met.

Maker: Schneider

Second: Joseph

Roll Call: Gosselin – Nay, Harms – Aye, Joseph – Aye, LaLonde – Nay, Peterson – Aye, Schneider – Aye. 4 Ayes, 3 Nays, 0 Absent.

Motion: To recommend to City Council approval of the Conditional Use to allow a drive through on this site.
Maker: Schneider
Second: Joseph
Roll Call: Gosselin – Aye, Harms – Nay, Joseph – Nay, LaLonde – Aye, Peterson – Nay, Schneider – Nay. 2 Ayes, 4 Nays, 0 Absent. Motion failed.

Discussion was held on options for the Design Review, City Council approval, Appeal process, procedure for moving through the process, etc.

Motion: To continue the Design Review of the Shell/Dunkin’ Donuts to the February 17, 2016 Plan Commission Meeting.
Maker: Joseph
Second: Harms
Voice Vote: 6 Ayes, 0 Nays, 0 Absent. All in favor. Motion carried.

ADJOURNMENT

There being no further business, a motion was made by Gosselin to adjourn the meeting at 10:10 p.m. Seconded by Schneider. All in favor. Motion carried.

Ayes 6 Nays 0 Absent 0

The meeting was adjourned at 10:10 p.m. The next meeting will be held Wednesday, February 17, 2016.

Respectfully submitted,

Cheryl A. Shimp, Recording Secretary

MINUTES
February 3, 2016
ZONING BOARD OF APPEALS
City of Batavia

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

1. Meeting Called to Order of the Zoning Board of Appeals

Chair LaLonde called the meeting to order at 7:00pm.

2. Roll Call:

Members Present: Chair LaLonde; Vice-Chair Schneider; Commissioners Harms, Joseph, Peterson and Gosselin

Members Absent:

Also Present: Drew Rackow, Planner; Joel Strassman, Planning and Zoning Officer; and Jennifer Austin-Smith, Recording Secretary

3. Items to be Removed, Added or Changed

There were no items to be removed, added or changed.

**4. Public Hearing: Variances for a Replacement Garage at 514 Main Street; Spillane and Sons, Mike Spillane, Applicant
514 Main Street**

Motion: To open the Public Hearing

Maker: Gosselin

Second: Joseph

Voice Vote: 6 Ayes, 0 Nays, 0 Absent
All in favor. Motion carried

Tom Gosselin recused himself from this Public Hearing due to being the applicant's attorney.

Rackow reported that tonight's hearing is for a replacement garage at 514 Main Street. Mike Spillane, applicant, would like a variance for a 2 ft rear variance and a 2 ft setback to the interior side property line versus the required 5 ft for both. The existing 16 x 18 garage is proposed to be replaced with a 20 x 20 garage. The shed on the property would remain at the current location. The close proximity to the existing home would limit the movements out of the proposed garage and moving the garage further to the east would diminish the amount of backyard on the property. The property was built in 1925 and is zoned R1H. Staff concurs with the request for a 2 ft side setback but recommends a 4.5 ft setback for the rear, reflective of the existing condition on the site.

Joseph asked if they are required to have a utility easement. Rackow stated that there is no easement on the plat of survey and there are not easements on either side. LaLonde asked if the applicant replaced the garage in the exact footprint would they still need a variance. Rackow answered they would still need a variance due to the nonconforming status of the structure.

Chair LaLonde swore in the applicant. Mike Spillane, Spillane and Sons, shared that he lives around the corner and owns this building in question. He pointed out that the letters of support from the neighborhood were unsolicited and he does not know the people who wrote them. The suggested 4.5 ft would make it difficult to get in and out of the garage because of the existing screened porch. There is no problem with the proposed condition for the service door location. To make it easier for the cars to exit and enter the garage they plan on removing the existing fence. The whole home will be rehabbed and brought down to the studs. There will be a whole new home inside the building. The driveway is in relatively good shape and they would like to leave as much as they can. He shared that no one has lived in that home for nine years. The driveway is shared with the neighbors and that is another reason for the variance request, to increase the safety and maneuverability of the vehicles.

LaLonde stated that he appreciates what Spillane's company has done in town with the older homes. LaLonde asked if the applicant considered turning the garage slightly. Spillane answered that it would create space in the backyard that would be unusable. There would be a pie shape in one corner of the lot and another pie in the back. Joseph stated that the garage would be 2.5 ft closer to the house and asked if it would be a small garage. Spillane stated that there is a not a lot of room in that location to work with and it is a small two car garage.

Motion: To close the Public Hearing
Maker: Peterson
Second: Harms
Voice Vote: 6 Ayes, 0 Nays, 0 Absent
All in favor. Motion carried.

LaLonde stated that, due to maneuverability, he could see the validity of having a variance of 2 ft for both property lines. Rackow stated that the Commission could consider if the 2 ft setback is enough and could recommend approval of the variances. LaLonde stated that he is in support of the applicant's request. Strassman noted that the Findings of Fact were written with the four-foot setback and the approval of the Findings of Fact would have to be adjusted to the applicant's requested two-foot setback.

Motion: To approve the Findings of Fact in the affirmative, with the setbacks requested by the applicant
Maker: Peterson
Second: Harms

Discussion was held on the motion. Joseph commented that she is not comfortable approving the adjusted Findings of Fact at this time. She explained that she does not have enough time to review each finding in regards to the two-foot setback.

Roll Call Vote: **Aye:** Harms, LaLonde, Peterson, Schneider
 Nay: Joseph
 4-1 Vote, 0 Absent, 1 Recusal, Motion carried.

Motion: To approve the variances for the garage with a two-foot setback and a two-foot side-yard setback with the condition that the service door be located on the east elevation

Maker: Peterson

Second: Schneider

Roll Call Vote: **Aye:** Harms, LaLonde, Peterson, Schneider
 Nay: Joseph
 4-1 Vote, 0 Absent, 1 Recusal, Motion carried.

Tom Gosselin returned to the meeting 7:25 pm.

5. Other Business

Strassman reported that the Dunkin Donuts discussion would be at the Historic Preservation Commission (HPC) meeting on Monday, February 8, 2016. The HPC would be reviewing the proposed signs and changes to the building. The Committee of the Whole (COW) should discuss the zoning issues at the first COW meeting in March.

6. Adjournment

There being no other business to discuss, Chair LaLonde asked for a motion to adjourn the Zoning Board of Appeals meeting. Harms moved to adjourn the meeting, Gosselin seconded. All were in favor. The motion carried. The meeting was adjourned at 7:26 pm.

Minutes respectfully submitted by Jennifer Austin-Smith

CITY OF BATAVIA

DATE: March 9, 2016
TO: Plan Commission
FROM: Joel Strassman, Planning and Zoning Officer
SUBJECT: **PUBLIC** Conditional Use for a Massage Establishment
HEARING Sunshine Massage, 11 East Wilson Street (Yune Zhou, applicant)

Background and Summary of Information from Applicant

A public hearing is scheduled for the March 16, 2016 Plan Commission meeting to consider a conditional use for a massage establishment at 11 East Wilson Street. This property is zoned DMU Downtown Mixed Use. This zoning district allows massage establishments with City Council approval of a conditional use. Last year, the City Council adopted [Ordinance 15-43](#) that amended the Zoning Code to require this conditional use approval.

The applicant, Yune Zhou, proposes improving the approximately 1,600 square foot lease space with an entry/waiting area, communal foot massage space, and individual massage rooms. This space was formerly the location of Healing Arts, which recently expanded and moved across Wilson Street. Ms. Zhou is a State licensed massage therapist with over 10 years' experience. The business will be staffed by 2-3 employees. Ms. Zhou believes this location can draw customers from the Chinatown area of Chicago. The Batavia location will feature a waiting room with potted plants (identified as "pot culture" in Ms. Zhou's attached statement), periodicals, and a television.

Staff Analysis

Massage establishments provide opportunities for personal care that fits the mixed use environment of downtown Batavia. The conditional use requirement allows the Commission to recommend, and the City Council to approve operational allowances and restrictions on any business, including massage establishments, that requires conditional use approval.

A tendency of some businesses, including massage businesses, is to obscure windows with opaque appliques, interior window treatments, or backs of merchandise displays. Much of the character of downtown Batavia lies in one's ability to see into the lease spaces of businesses. The Zoning Code requires much of the street-facing walls of buildings in the DMU District to be clear vision glass. The conditional use can include one or more conditions of approval addressing this visibility issue. Staff feels that requiring visibility through the reception/waiting area will be consistent with the desirable character of downtown Batavia.

Other aspects of businesses that may be addressed with a conditional use are who can staff the business and hours of operation. Since Ms. Zhou seeks to operate her business in a manner to provide quality services at a good value, staff feels that the conditional use may be limited to operation of the business solely by Ms. Zhou doing business as Sunshine Massage, for as long as she maintains her State license. The conditional use also can require that employees of Sunshine Massage that provide massage services likewise maintain their State license. Also, if the City adopts licensing requirements for massage establishments, the conditional use can require Ms. Zhou to apply for, and obtain the City license to continue operating Sunshine Massage.

Staff feels that business hours should be limited to 8 am to 10 pm, daily; these are the hours the City Council established for body art (tattoo & piercing) establishments, another business that requires conditional use approval in this District.

Staff notes that the application includes a suggestion for a wall sign. The Zoning Code requires that illuminated wall sign cabinets be contoured to reflect the shape of the image or that sign face have embossed copy in relief. One would need to request a variance to propose an alternate design. A wall sign requires approval by the Historic Preservation Commission.

In reviewing and recommending a conditional use, the Plan Commission must arrive at findings required by Section 5.403.A in Zoning Code [Chapter 5.4: Use Permits](#). Listed below are the required findings and staff analysis of each.

- 1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.**

With Plan Commission recommendation of, and City Council approval of the operational restrictions explained above, Sunshine Massage, operated as proposed by Yune Zhou, would not be detrimental to the vicinity or public in general.

- 2. The proposed use conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council.**

Goal 1 of the Batavia Comprehensive Plan's Land Use Element stresses the need to balance land uses and maintain employment areas. The proposed use would provide an opportunity to add to the service-oriented character of downtown Batavia.

- 3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.**

The proposed use would be located in a building that can be improved to accommodate its needs. As conditioned, the business would be owned and operated by appropriately State licensed personnel.

- 4. The proposed use would not unreasonably interfere with the use and enjoyment of nearby properties.**

As conditioned, the proposed use would not interfere with the enjoyment of nearby properties.

Staff Recommendation

Staff recommends the Plan Commission open and conduct the public hearing. After closing the hearing, the Commission must consider and make conclusions on the required findings.

Staff recommends the Commission recommend City Council approval of the conditional use. Specifically, the Commission should recommend approval of a conditional use for a massage establishment at 11 East Wilson Street, being granted to Yune Zhou, doing business as Sunshine Massage, subject to the following conditions:

1. Providing a clear view of the entire proposed reception/waiting area by maintaining clear vision glass through store front windows and door, without adding any appliques, tinting, or other opaque or translucent coating or finish to the glass, or by placing anything on or in the windows except for permitted window signs.
2. Use of interior window or door treatments such as, but not limited to, curtains, blinds, valances, or shades that restrict the visibility required in Condition 1 is prohibited.
3. Placement of periodical display racks, customer coat/bag storage, or customer seating shall not unreasonably restrict the visibility required in Condition 1.
4. Yune Zhou, and all personnel engaged in performing massage, at all times shall maintain current State of Illinois licensure as massage therapists.
5. Hours of operation shall be limited to 8 am through 10 pm, daily.
6. If the City adopts licensing requirements for massage establishments, the applicant must apply for, and obtain the City license per the adopted requirements.

Attachment: Conditional Use application material

- c Mayor and City Council
- Department Heads
- Yune Zhou, applicant
- Media

263. W. 23 rd street.chinatown
Chicago IL 60616
3124205305
Sphie1023@qq.com

15/02/2016

batavia

Dear Batavia

My name is Yune Zhou . I'm Chinese and I want have a massage place in your city . I'm a professional massage person . I was doing massage more than 10years. I used to have a massage place in China. And it's a strong business.because we have professional skill and friendly service. In 2011 I was turn to American. At start I was work in other massage place. But about one years ago I already have my own massage place in Springfield Peoria. And I have good customer relations and high customer satisfaction. But cause my friends all in Chinatown Chicago then I want to move my business to a near by one. I think Batavia is a good place and my business have a lot of benefit for Batavia resident. I think it will become a strong business .

If my application can get your approve . I will try my best to give the best survive to all of the Batavia.

1 my survive include foot massage and body massage .for foot massage is Chinese style and I will add a lot of Chinese element in it. Such Chinese herbal and so on .

2 for my place I will put some facility such as pot culture ;newsstands ;tv .

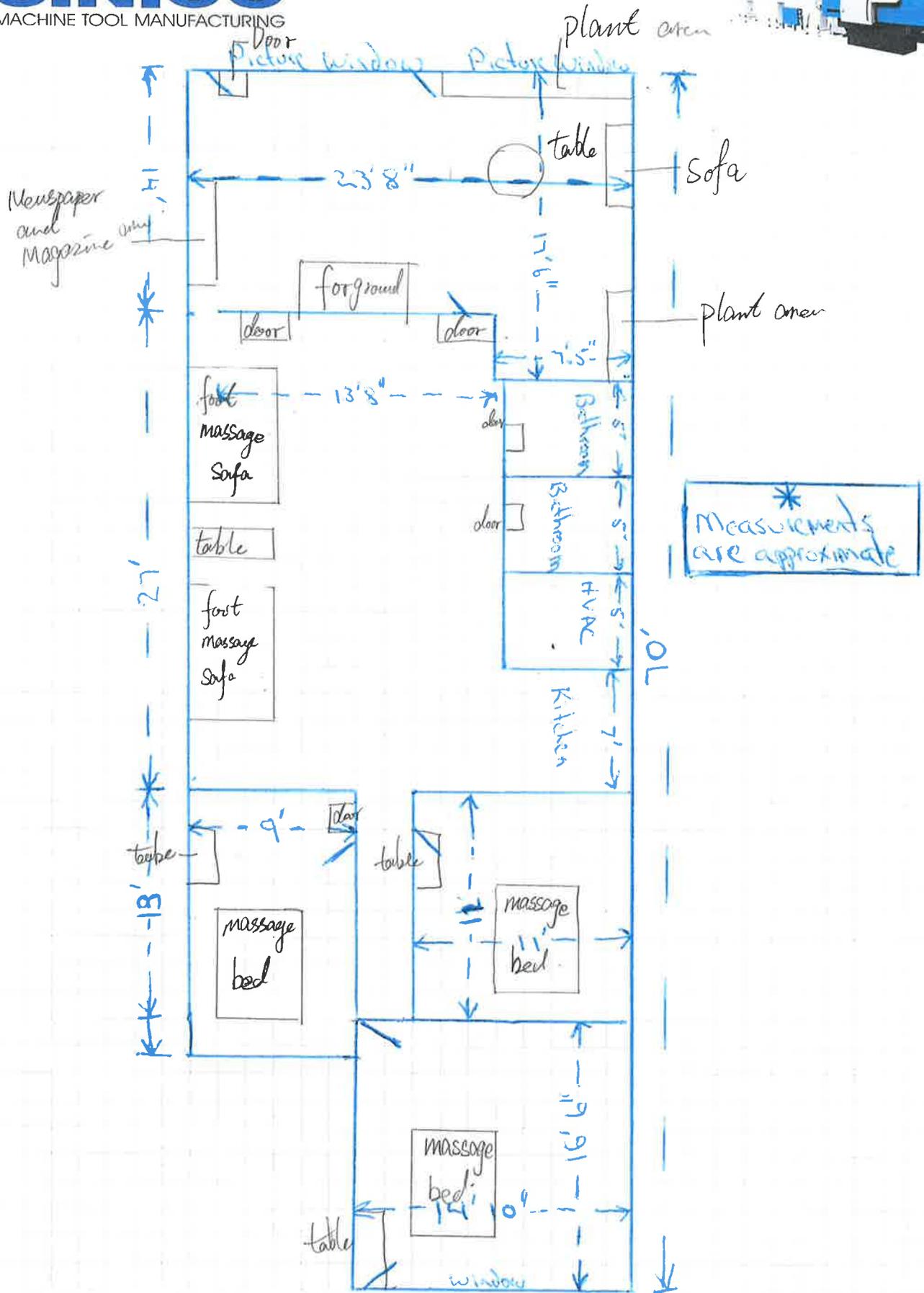
3 I will have about 2~3employee to make sure my customer have a good survive and amazing experience.

4. I will hold some activity to give my customer good deal.

Above all just my start ideas after get your approve and when I open this place to start my business. I will depends Batavia people habit to fit about my business. Wish to get your approve.

Sincerely

Yune Zhou



AUTOMATIC ROTARY TRANSFER CUT OFF AND END-FINISHING MACHINES

State of Illinois

Department of Financial and Professional Regulation
Division of Professional Regulation

LICENSE NO.
227.017385

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

EXPIRES:
12/31/2016

**LICENSED
MASSAGE THERAPIST**

**YUNE ZHOU
2745 S 6TH STREET
SPRINGFIELD, IL 62703**



MANUEL FLORES
ACTING SECRETARY

JAY STEWART
DIRECTOR

The official status of this license can be verified at www.idfpr.com

9219926

Small Round hand-Black



3' 30"

11' 90"

PingFang TC - Ultralight

CITY OF BATAVIA

DATE: March 3, 2016
TO: Plan Commission
FROM: Drew Rackow, AICP, Planner
SUBJECT: **PUBLIC HEARING:** Amendment to the Official Zoning Map from R0, Single Family Residential to POS, Parks & Open Space District
500 & 501 Wind Energy Pass, 502 & 503 Pottawatomie Trail and 427 Ridgelawn Trail - City of Batavia, Owner and Applicant

Background

A public hearing is scheduled for the March 16th Plan Commission meeting to review proposed Zoning Map amendments for six City-owned storm water detention lots located along Hart Road and Ridgelawn Trail in the southeast quadrant of the City. Two parcels are located at Ridgelawn Trail. Four parcels are located along Hart Road along both sides of Pottawatomie Trail and Wind Energy Pass, and are referred to as the Hart Road parcels in this memo. The six parcels comprise about 5.58 acres of land. The City acquired the Ridgelawn parcel in 2013; the others were acquired upon completion of their developments.

The proposed amendments would reclassify these properties from the zoning designation of R0, Single Family Residential to POS, Parks & Open Space. These parcels are designated for Parks and Open Space on the Comprehensive Plan Land Use Map. No change in the design or use of these parcels is contemplated with this change. The parcels have been designated for detention use on their plats of subdivision.

Properties adjacent to the Hart Road parcels to the north, and east are zoned R0, Single Family Residential. Parcels to the west in North Aurora are zoned R-1 PUD. Parcels in Unincorporated Kane County are zoned F, Farming. For the Ridgelawn parcel, property to the north is zoned POS, Parks and Open Space and F Farming in Kane County, properties to the south, west and east are zoned RO, Single Family District.

Staff Analysis

Overall, the proposed Zoning Map amendments will place the subject properties in the category of zoning that is consistent with their use as detention areas. Open space map classifications will ensure continued use as detention, and further restrict the development potential of the parcels. The Ridgelawn parcel amendment is reflective of the change in ownership since 2010. The Hart Road amendment would place a cluster of City owned detention into a reasonably sized zoning district.

The existing use of the property as a Stormwater Management Facility is a permitted use in the proposed zoning district. The proposed Zoning District will not create non-conforming zoning conditions on the property. The change reduces the number of potential uses of the property and generally increases the required setbacks and reduces the allowed building height. The zoning map amendments propose no physical improvements to these properties and they would remain as passive use open spaces.

Conformance to the Comprehensive Plan

Staff has reviewed the proposed change for its conformance with the Comprehensive Plan and believes that several Goals and Policies are met with this change. Chiefly, this most directly advances Land Use Element Goal 1 “*Maintain Batavia as an attractive place to live, work shop and play with a balance of land uses*”, through Policy e. “*Proactively and fairly enforce land use regulations.*” The change in ownership for the Ridgelawn Trail parcel merited a proactive review of the most appropriate zoning classification. In reviewing this parcel it was appropriate for the city to review nearby parcels that are

similarly situated. Staff identified that the Hart Road parcels could be placed in one single continuous district and felt it appropriate to include these parcels in the amendment process.

Other goals and policies that are met include Goal 1 of the Environment Element to “*Protect and enhance the City’s and the region’s air, land and water resources*” by meeting Policy e. “*Minimize erosion, storm water runoff and pollution by requiring the use of best management practices, including limits on pesticide use, for all construction activities, especially adjacent to wetlands*”. These parcels function as storm water management facilities that provide for erosion control and cleaning of storm water to enhance water quality. Similarly, Goal 1 of the Parks and Open Space Element to “*Provide an abundant supply of parks and open spaces*”, is met with Policy f. “*Preserve or reclaim property adjacent to waterways for open space use and to help improve the quality of water that enters the waterways – preserve and enhance naturalized settings.*” The zoning change recognizes the important contribution these properties play to improving the watershed.

Findings

The Plan Commission must review and approve the following Findings with a Zoning Map Amendment. Staff provides the following evaluation of the Findings for the Commission to consider.

Public Notice. All required public notice has been conducted in accordance with applicable state and local laws;

Finding: City staff executed the notice mailing and posting of the property pursuant to City Code. Notice was published in the Daily Herald on February 29, 2016. Sign posting and mailing also occurred on February 26th.

Public Meetings and Hearings. All required public meetings and hearings have been held in accordance with applicable state and local laws.

Finding: The Plan Commission on March 16, 2016 conducted a public hearing in accordance with state and local law.

Conformance to the Comprehensive Plan. The extent to which the proposed amendment to the Official Zoning Map conforms generally to the goals and policies of the Comprehensive Plan and Comprehensive Plan Land Use Map.

Finding: The proposed amendment to the Zoning Map is consistent with several goals and policies of the Comprehensive Plan, by placing the property in a zoning category most appropriate for the present use and by indicating the important storm water function it provides. The proposed classification matches the Comprehensive Plan Land Use Map designation for the properties.

Review of Conditions.

1. Is the proposed zoning district and the development it allows compatible with the existing uses and zoning of nearby property?

Finding: Parks and Open Space, and the use of the parcels as detention has existed since the parcels were initially developed and are compatible with the adjacent uses.

2. Is there evidence to suggest that property values will be diminished by the particular zoning restriction changes?

Finding: There is no evidence to suggest that property values will be diminished by the restriction. The value of the property already takes into account the present use of the parcel.

3. If any property values are diminished, does the diminishment promote the health, safety, morals, or general welfare of the public?

Finding: While there is no diminishment, the health, safety, morals and general welfare will be promoted by placing the properties under a Zoning District tailored to the present use.

4. Does the proposed zoning change provide a greater relative gain to the public as compared to the hardship imposed on the individual property owner?

Finding: The zoning change will provide greater gain to the general public, by placing further use limitations on the property. The City of Batavia owns the properties and there would be no hardship to the owner. The general public benefits from use of these properties as storm water management facilities.

5. Is the subject property is suitable for the zoned purpose?

Finding: The properties and their existing use are suitable for the zoned purpose.

6. Has the length of time the property has been vacant as zoned been excessive, considering the context of land development in the area in the vicinity of the subject property?

Finding: The properties have already been developed for the proposed purpose. There has not been any vacancy.

7. Is there a community need for the proposed zoning or use?

Finding: The use of the parcel as detention areas provides and fulfills an important community need for detention within a residential area.

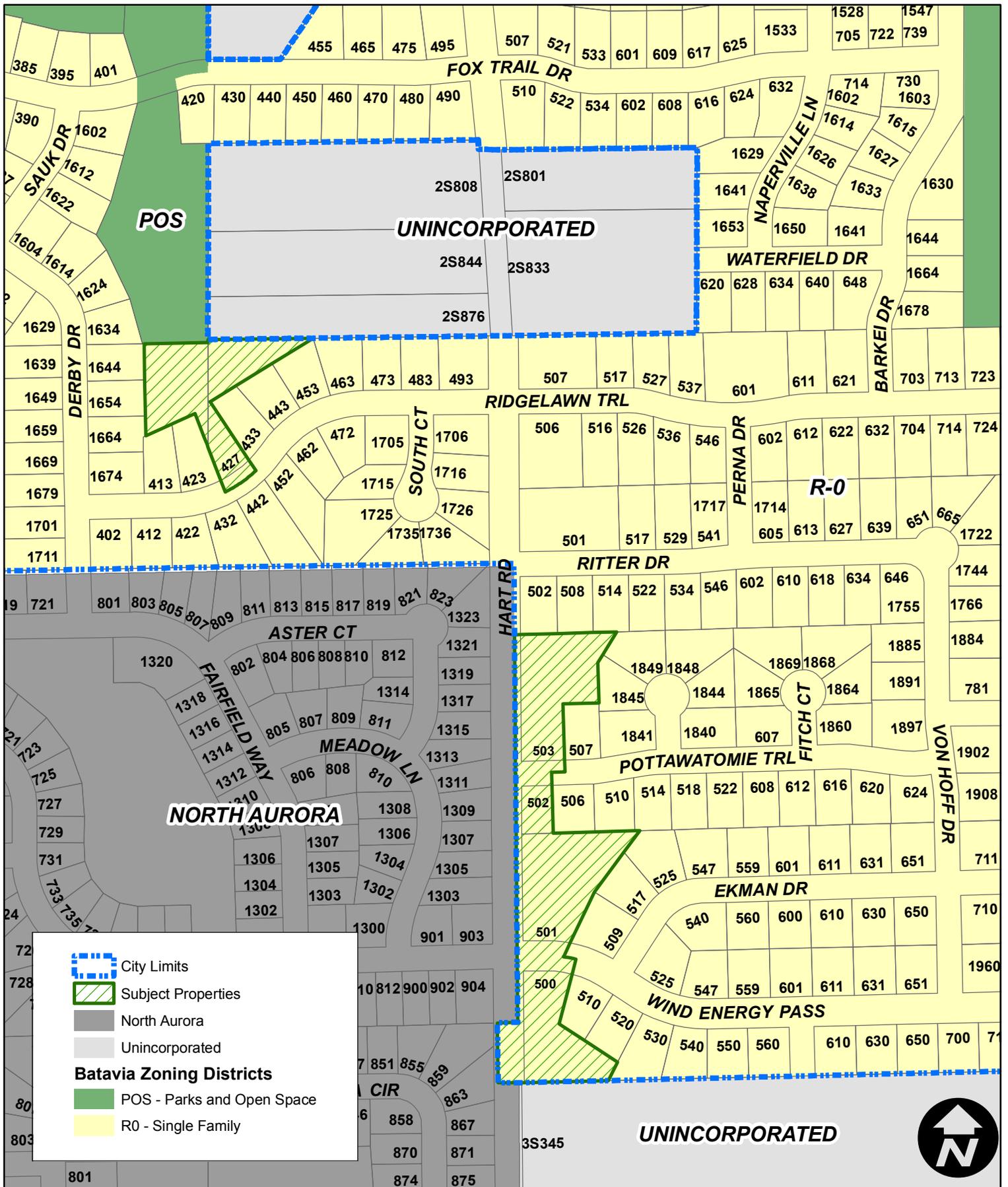
Staff Recommendation

Staff recommends the Plan Commission take the following actions:

1. Open and conduct a public hearing for the proposed Zoning Map Amendment.
2. Approve Findings for Approval for a Zoning Map Amendment.
3. Recommend approval of a Zoning Map Amendment to reclassify the subject properties from RO, Single Family Residential to POS, Parks and Open Space.

Attachment: Zoning Map Exhibit

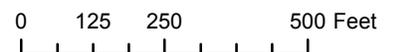
Cc: Mayor and City Council
Media



Maps and data provided by the City of Batavia are not intended to have, nor do they have, the accuracy of surveys or legal descriptions of land areas. GIS data obtained from the City of Batavia is intended for representational use only. Reliance on such maps and data is at the risk of the recipient. This information, in either electronic or map form, is provided "as is." No warranty expressed or implied is made regarding the accuracy, timeliness, or completeness of the data, nor shall the act of distribution constitute any such warranty. This disclaimer applies both to individual use of the data and aggregate use with other data.



Proposed Zoning Map Amendment Southeast Detention Parcels Near Hart Road



CITY OF BATAVIA

DATE: March 9, 2016
TO: Plan Commission
FROM: Drew Rackow AICP, Planner
SUBJECT: PUBLIC HEARING - Amendments to the Text of the Zoning Code
Chapter 2.3: Commercial Districts
Chapter 2.5: Mixed Use District
Chapter 2.6: Employment Districts
Chapter 4.1: Site Regulations
Chapter 4.2: Off-Street Parking and Loading Regulations
Chapter 4.3: Landscape Regulations
Chapter 4.4: Sign Regulations
Chapter 6: Use Definitions

Background

Staff has scheduled a public hearing for the review of miscellaneous changes to the Zoning Code to address items that have arisen through the application of the Zoning Code. Several of the proposed amendments address items that have been the subject of relief through planned developments or variances over the past few years. This set of changes also addresses some items not well defined in the Code, but raised through interactions with potential developers or businesses.

Below you will find a summary of the items and the proposed modifications to address them. Please see the attached modified chapters for the proposed amendment text.

Summary of Proposed Text Amendments

Chapters 2.3, 2.5 and 2.6: Commercial Districts, Mixed Use District, Employment Districts

Drive Through in General Commercial District: Staff proposes adding language in Chapter 2.3: Commercial Districts, to explicitly allow for a Conditional Use for drive through in the GC and CC districts for uses that are not explicitly addressed in the Zoning Code. This would provide for a Plan Commission recommendation and City Council approval.

Additional Uses for Mixed Use District: Staff proposes adding additional uses to the Use Table in Chapter 2.5: Mixed Use Districts. This would add several uses that are permitted/conditional uses in the DMU or Commercial Districts that may also fit in the MU District. These include Media Studio as a permitted use, and a Banquet Facility as a conditional use.

Fueling Canopy Heights: Section 2.305.D addresses fueling canopy clear area height, which was the subject of a variance request with Speedway. Staff believes that the maximum height could be raised to reflect the canopy height seen in this project. The revision would raise the maximum clear height specified in this section to 16'6".

Gun Ranges, Indoor: Indoor Gun Ranges are not currently addressed in the Zoning Code. Recent cases in Illinois have defined gun ranges, when not otherwise defined, as being a Recreational Use. Staff is proposing to define both outdoor and indoor gun ranges, and requiring a conditional use

and that Indoor Ranges be located in a free-standing building. Staff has proposed that the Indoor range be added to the General Commercial, Light Industrial and General Industrial Districts. Definitions for both uses would be added, and the Entertainment and Recreation Indoor definition would be modified to exclude Gun Ranges.

Smoking Lounges: Staff is proposing modification of the recently added Smoking Lounge definition to more clearly state that vaping products would fall under this use definition, when creating an environment similar to a Smoking Lounge.

Transitional Setback Clarification: The City Council approved in 2014, changes that would create additional landscape requirements for Transitional setbacks from Commercial and Employment zoning to Residential. The revisions would clarify when the transitional setbacks apply in commercial districts. This change has already been made in Employment Districts. There is no effective change to the regulations. New notations are inserted in the setback portion of Table 2.304 and 2.604 to specify side and rear transitions and a notation in the Table would also direct the reader to the appropriate Landscape Regulations for additional plantings.

Perimeter Landscape Areas with Shared Parking: This particular change addresses an item that arose with the Chick-Fil-a Planned Development. The proposed language would allow a deferral of the required side and rear perimeter landscaping to allow shared parking and access aisles for common shopping centers to be located in these areas.

Accessory Structures in the Employment Districts: In 2015, Accessory Structure provisions were added to the Zoning Code to address the Employment Districts. This change, while allowing additional accessory structures created a limitation of 720 square feet. Staff is proposing adding allowances for an accessory structure to be larger, based on the size of the Principal Structure. While this would allow larger accessory structures it would insure that these larger accessory structures remain subordinate to the principal structure.

Chapter 4.1: Site Regulations

Industrial District Refuse Enclosures: Staff proposes adding language to the requirements for refuse enclosures (4.106.C), to waive a requirement for a solid masonry refuse enclosure when located in a conforming, outdoor storage area bounded by a solid fence.

Industrial Fence Requirements: This revision to Section 4.108 would allow fences in the side and rear setbacks of industrial properties to be installed to the maximum height of the district, when those properties abut an industrial use. The Code as currently written, would require that fence to not exceed 8 feet in height within five feet of the property line. This would allow these fences to be up to 12 feet in height.

Chapter 4.2: Off-Street Parking and Loading

Downtown Mixed Use Entrance and Exit Access Aisle Depths: These amendments in Chapter 4.2 would revise Sections 4.206.A.2 and 4.212 to address items that were the subject of variances with Walgreens. These particular Sections are much more difficult to address within existing development sites in the downtown. Staff proposes removing the “level” requirement (as it is just not possible given drainage requirements) and providing language to allow alternative design in the DMU with Design Review. A distance from a major street for parking lot aisles to cross an access aisle has been reduced to 20 feet.

Electric Charging Stations: Staff proposes to add some parameters to the Zoning Code to address Electric Vehicle Charging Stations. This would add allowances for additional informational signage, specifications for the location of equipment, and other items, such as equipment protection that are unique to Electric Vehicles.

Parking Wheel Stops: Variances to allow wheel Stops were granted in two recent variance cases. In both instances, variances were granted to allow existing stops to remain in place. Additionally, revisions for City Owned Temporary lots included allowances for them. Staff believes that with new facilities, Design Review will provide an opportunity minimize the use of the wheel stops, or conversely allow them when site conditions warrant them. Staff proposes deleting both references to wheel stops in Chapter 4.2.

Chapters 4.3 and 4.4: Landscape Regulations and Sign Regulations

Projecting Signs: Staff proposes revising Chapter 4.4: Sign Regulations to add an additional allowance for a projecting signs in the DMU, based on the size of the subject building. This would allow additional opportunities for businesses in larger multi-tenant buildings to also have projecting signs in the DMU. Staff also proposes allowing for a reduced height in instances where projecting signs are above a private sidewalk or entrance to 8 feet.

Free Standing Sign Landscaping: Staff is proposing to add some flexibility to the existing requirements for landscaping for signs. The proposed text would allow for consideration of alternate arrangements of landscape material on site if a sign is being replaced in a location, where the new landscape standards cannot be met, or a proposed sign location cannot otherwise fit the required 5 foot landscape planter around the sign. The required landscaping would still be required to be located in close proximity to the sign location.

Staff Recommendation

Staff recommends the Plan Commission open and conduct the public hearing. The Commission should then discuss the proposed amendments. Once discussion has concluded, the Commission may provide further direction for staff to research or prepare additional language for consideration. The Commission may elect to keep the Hearing open to gather additional information. Otherwise, the hearing may be closed and a recommendation may be made to the Committee of the Whole.

Attachment: Redlined Draft Code Sections

- c Mayor and City Council
- Department Heads
- Media

Chapter 2.3: Commercial Districts

Sections:

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

2.301 Purposes

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

- A. Provide for a range of commercial uses at appropriate scales and locations.
- B. Encourage quality and variety in building and landscape design.
- C. Ensure land use compatibility with residential and other adjacent uses.
- D. Provide for limited mixed commercial and residential uses.

2.302 Commercial Districts

The commercial districts are:

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

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

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

2.303 Land Use Regulations

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

"P" designates permitted uses.

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

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

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

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

- B. **Unlisted Uses.** Uses are defined in Chapter 6: Use Definitions. If a proposed use is not listed in the Use Definitions, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.303: Land Use Regulations – Commercial Districts below or not assigned to a Use Definition pursuant to Section 2.303.B: Unlisted Uses are prohibited.
- D. **Additional Use and Development Regulations.** Additional use and development regulations for commercial districts are set forth in Section 2.305: Additional Use and Development Regulations.

Table 2.303: Land Use Regulations – Commercial Districts

Use Classification	NC	CC	GC (L6)	Additional Regulations
Amplified Artistic Performance	--	P, L7	P, L7	
Animal Services				
<i>Animal Grooming</i>	P	P	--	
<i>Animal Training</i>	--	P	--	
<i>Small Animal Clinics</i>	P	P	--	
Automated Teller Machine (ATM)	A	A	A	See Section: 2.305.F
Automated Teller Machine (ATM), Remote	--	A	A	See Section: 2.305.F
Banks and Other Financial Institutions				
<i>Without Drive Through Facilities</i>	P	P	P	
<i>With Drive Through Facilities</i>	--	P	C, LI	
Banquet Facility	C	P	P	
Brewpub	--	P	P	
Building Material and Home Improvement Sales and Service, Retail	--	P	P	
Business Services	P	P	P	
Carnival	T	T	T	See Section: 4.509
Cannabis Dispensary, Medical	C	C	C	See Section 4.515
Child Day Care	P	P	--	
Conference Center	--	C	C	
Cultural Institutions	P	P	--	
Currency Exchange	--	C	C	
Drive Through	--	C	C	Unless otherwise regulated in this table

Table 2.303: Land Use Regulations – Commercial Districts				
Use Classification	NC	CC	GC (L6)	Additional Regulations
Dry Cleaning and Laundry Outlet	P, L2	P, L2	P, L2	
Eating and Drinking Establishments <i>Bars/Taverns/Nightclubs/Lounges</i>	C	P	P	
<i>Restaurants, Full Service</i>	P	P	P	
<i>Restaurants, Limited Service</i>	P, L3	P	P	
Entertainment and Recreation, Indoor <i>Large-Scale</i>	--	C	C	
<i>Small-Scale</i>	P	P	P	
Entertainment and Recreation, Outdoor	--	C	C	
Farmers' Market	A	A	A	
Firing Range, Indoor	--	--	C	L8
Food Preparation <i>Small-Scale</i>	P	P	P	
Fortune Telling Business	C	C	C	
Funeral and Undertaking Services	--	C	--	
Garden Supply Stores and Plant Nurseries	--	P	P	
Government Offices and Facilities	P	P	P	
Haunted House	--	T	T	See Section: 4.509
Health Care Facilities <i>Urgent Care Facility</i>	--	P	P	
<i>Medical Offices and Clinics</i>	P	P	--	
Hotels and Commercial Lodging	--	P	P	
Instructional Services, Specialized	P	P	--	
Laboratories, Commercial	P	P	--	
Laundry Services	P	P	--	
Massage Establishment	C	C	C	
Offices, General	P	P	P, L4	
Over-The-Air Reception Device	P	P	P	See Chapter 4.8
Pawn Shops	--	P	P	See Title 3-5-C
Personal Services	P	P	P	
Residential, Permanent <i>Loft Unit</i>	P	P	P	
Retail Sales, Convenience	C	P	P	
Retail Sales, Furniture	P	P	P	
Retail Sales, General	P	P	P	
Satellite Dish Antenna, Large	P, L5	P, L5	P, L5	See Chapter 4.8
Seasonal Sales	T	T	T	See Section: 4.509
Smoking Lounge	--	C, L8	--	
Swap Meet, Flea Market and Auction, Indoor	--	P	P	
Swap Meet and Auction, Outdoor	--	T	T	
Tattoo Parlor / Piercing Studio	--	P	--	
Teen Nightclub	--	C	--	
Utilities <i>Customer Service Center</i>	--	--	P	
<i>Facilities</i>	--	C	C	
<i>Well Site</i>	P	P	P	

Table 2.303: Land Use Regulations – Commercial Districts				
Use Classification	NC	CC	GC (L6)	Additional Regulations
Vehicle and Equipment Sales, Leasing and Services				
Car Wash	--	P	P	See Section: 4.512
Commercial Vehicle/Equipment Sales and Rental; New and Used	--	C	C	
Fueling Facility	C	P	P	
Fueling Facility, Alternative	A	P	P	
Motor Vehicle Sales and Leasing, New and Used	--	C	C	
Non-Commercial Vehicle Rental	--	C	C	
Tent Sale, Vehicle	--	T	T	
Vehicle and Equipment Services, Light	--	P	P	
Wireless Communication Facilities	--	C	C	
L1: Financial Service Establishments with drive-through facilities are prohibited within 250 feet of any Kane County or State of Illinois right-of-way, or right-of-way designated as an arterial in the Comprehensive Plan L2: Drive-through Dry Cleaning and Laundry Outlets are prohibited in GC and require Administrative Design Review in other districts L3: Drive-through restaurants require a Conditional Use Permit L4: Offices are permitted above the first floor L5: Only as a use incidental to the principal use of the property L6: Non Retail Sales Tax Producing Business cannot occupy more than 25% of the gross square footage of a multitenant building in the GC District. L7: Accessory Use to an Approved Use L8: Use must be located in a free-standing building without other occupancies				

2.304 Site Development Regulations

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

Table 2.304 Site Development Regulations – Commercial Districts				
Standards	NC	CC	GC	Additional Regulations
Maximum Size of Use or User (sq. ft.)	10,000	25,000	--	
Maximum Building Height (ft.) / (Stories)	25/1 30/2	35/2	45	
Building Step-back	No	No	Yes	(A)
Minimum Setbacks (ft.)				(B)
Front	20	20	25	
Side (Corner)	15	20	20	
Side (<i>Transitional to Residential</i>)	15	30	75	
Side (Nonresidential)	10	15	20	
Rear (<i>Transitional to Residential</i>)	15	40	75	
Rear (Nonresidential)	15	15	20	

Table 2.304 Site Development Regulations – Commercial Districts				
Standards	NC	CC	GC	Additional Regulations
Separation between Buildings (ft.)				
Single story	10	15	15	
Multiple story	--	20	20	
Minimum Required Perimeter Landscape Area (ft.)				(C)
Front	20	20	25	
Side (Corner)	15	20	20	
Side (Residential)	15	25	40	
Side (Nonresidential)	10	15	20	(D)
Rear (Residential)	15	30	40	
Rear (Nonresidential)	15	15	20	(D)
Landscaping (% of net lot area)	15	15	15	See Chapter 4.3
<u>Transitional Setback Landscaping</u>				<u>As Specified by Required Setback, See 4.303.N.4</u>
Exterior Lighting Standards, maximum height (ft.)	15	20	25	See Section 4.211.B.3
Building Setback to Parking (ft.)	7	10	10	See Section 4.203.N
<p>(A) Building Step-back. Where a building in a GC district is within 50 feet of property designated for residential use in the General Plan, a building step-back of one foot for every one foot of building height above 2 stories or 35 feet is required.</p> <p>(B) Commercial Uses Adjacent to Residential Districts. Commercial activity occurring within 50 feet of property designated for residential use in the Comprehensive Plan shall be conducted within an enclosed building.</p> <p>(C) Street Frontage Landscape. Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas and lighting.</p> <p>(D) Shared Access Aisles and Shared Parking in Perimeter Landscape Areas. Shared access aisles and shared parking accessed from shared aisles Common Parking Areas and shared access aisles may occupy Required Perimeter Landscape Areas on a Side or Rear Setback, when such facilities are located in recorded shared, by easements for such purposes, with adjacent parcels. [sb2]</p>				

2.305 Additional Development Regulations

- A. **Accessory Structures.** Accessory structures shall be identified on an approved Final Design Review site plan and shall comply with the following regulations:
1. **Establishment.** An accessory structure shall not be constructed prior to construction of a principal structure.
 2. **Location.** Accessory structures may be located:
 - a. In the building envelope.
 - b. In a required side or rear setback, but not within a required landscape area.

3. **Maximum Height.** The maximum height shall be 15 feet.
 4. **Separation.** Accessory structures shall be separated from principal structures and other accessory structures by a minimum of 10 feet, measured from the exterior walls.
- B. **Gated Facility Entrances.** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.
- C. **Drive-Through Facilities.** Drive-through facilities shall be a minimum of 50 feet from property designated for residential use in the Comprehensive Plan.
- D. **Vehicle and Equipment Sales, Leasing and Services.**
1. **Fuel Canopies.**
 - a. The clear height of a canopy over fuel pumps shall be a minimum of 13'-6" and shall not exceed ~~14'-6"~~ 16'-6". Clearance height shall be measured from finished grade to the bottom of the fuel canopy fascia.
 - b. The fuel pump canopy shall be a minimum of 150 feet from property designated for residential use in the Comprehensive Plan.
 2. **Service Bays.**
 - a. No part of a building within 50 feet of property designated for residential use in the Comprehensive Plan shall contain bay or roll-up doors or similar service openings.
 - b. Service bays located within 200 feet of property designated for residential use in the General Plan shall not face the adjacent residential property.
 - c. All service activities shall be conducted within the service bays. No used or discarded vehicle parts, equipment, or disabled, junked, or wrecked vehicles may be located outside the service bays.
- E. **Outdoor Dining Areas.** Uncovered outdoor dining areas are permitted within the required setback areas adjacent to street frontages, no closer than 10 feet from the property line. Permanent installations shall require Administrative Design Review approval.
- F. **Automated Teller Machines.** Exterior Automated Teller Machines shall require an Administrative Use Permit (AUP). The location and security measures shall

be approved by the Police Department prior to issuance of the AUP. The AUP shall consider signage, pedestrian accessibility and availability of parking.

- G. **Hours of Operation.** In the NC District, the hours that a business may be open to the public are limited to between 6:00 a.m. and 11:00 p.m. Increased hours of operation may be permitted with approval of a Conditional Use Permit to insure that there will be no significant adverse impact on nearby uses.
- H. **Outdoor Storage.** Outdoor storage is prohibited, except for *Building Material and Home Improvement Sales and Service, Retail* uses in an area fully enclosed by a solid fence. No stored material shall exceed the height of the fence. This section does not apply to trash and recycling enclosures.
- I. **Outdoor Retail Sales and Merchandise Display.** Outdoor retail sales and merchandise displays shall be located and conducted in compliance with the following requirements. Garden Supply Stores and Plant Nurseries and uses that are permitted to be conducted for a temporary period of time as listed in Table 2.303: Land Use Regulations – Commercial Districts are not outdoor retail sales and merchandise display under this section.
 - 1. **Location.** Outdoor retail sales and merchandise displays shall not obstruct ingress and egress to a building, obstruct fire lanes, interfere with vehicular circulation or sight distance, be located in landscaped areas, or extend into the right-of-way. Outdoor retail sales and merchandise display areas shall be adjacent to the structure containing the business selling the merchandise. Final Design Review plans shall designate permitted areas for outdoor retail sales and merchandise display. For properties developed without design review or with Final Design Review plans approved prior to the effective date of the Zoning Code, the location of outdoor retail sales and merchandise display require Administrative Design Review approval.
 - 2. **Maximum Area.** Other than New and Used Motor Vehicle Sales and Leasing, the maximum area of outdoor retail sales shall be the lesser of 5 percent of the gross floor area of the use or:
 - a. **Neighborhood Commercial:** 250 square feet for each use.
 - b. **Community Commercial:** 500 square feet for each use.
 - c. **General Commercial:** 1,000 square feet for each use.
 - 3. **Height.** Display merchandise shall not exceed a height of 10 feet above finished grade. Construction equipment including fork lifts, boom trucks, cranes, bucket trucks and similar equipment shall be displayed in an unextended position.

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

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

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

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

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

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

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

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

Chapter 2.5: Mixed Use Zoning District

Sections:

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

2.501 Purposes

The purposes of the Mixed Use Zoning District are to:

- A. Implement the policies and goals of the Comprehensive Plan and redevelopment plans of the City.
- B. Create complete neighborhoods with a range of uses and activities.
- C. Integrate new development into existing neighborhoods.
- D. Establish high quality design in new development and redevelopment.
- E. Create inviting, coherent and consistent street spaces.

2.502 Applicability

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

2.503 Land Use Regulations

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

"P" designates permitted uses.

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

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

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

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

- B. **Unlisted Uses.** Uses are defined in Chapter 6: Use Definitions. If a proposed use is not listed in the Use Definitions, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.504: Land Use Regulations – Mixed Use District below or not assigned to a Use Definition pursuant to Section 2.503B: Unlisted Uses, are prohibited.
- D. **Additional Use and Development Regulations.** Additional use and development regulations for the Mixed Use District are set forth in Section 2.505: Additional Use and Development Regulations.

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

Table 2.503 Land Use Regulations – Mixed Use		
Use Classification	MU	Additional Regulations
Food Preparation <i>Small Scale</i>	P, L4	
Fortune Telling Business	C	
Government Offices and Facilities	P	
Haunted House	T	See Section 4.509
Health Care Facilities <i>Urgent Care Facility</i> <i>Medical Offices and Facilities</i>	P P	
Hospice	P	
Hotels and Commercial Lodging	C	
Instructional Services, Specialized	P	
Laboratories, Commercial	P	
Laundry Services	P	
Mail Order, Catalog or Internet Sales	P, L4	
Maintenance and Repair Services	C	
Manufacturing and Assembly <i>Artisan</i>	P, L5	
Massage Establishment	C	
<u>Media Studio</u>	<u>P</u>	
Offices, General	P	
Over-The-Air-Reception Device	P	See Chapter 4.8
Personal Services	P	
Public Safety Facilities	P	
Religious Assembly	C, LI	
Residential Permanent <i>Loft Unit</i> <i>Multi-Family</i>	P P	
Retail Sales, Convenience	C	
Retail Sales, Furniture	P	
Retail Sales, General	P	
Satellite Dish Antenna, Large	P, L3	See Chapter 4.8
Schools, Public or Private	P	
Seasonal Sales	T	See Section 4.509
Senior Housing	P	
Shelter Care Facility	C	
Smoking Lounge	C	
Swap Meet, Flea Market and Auction, Indoor	C	
Swap Meet, Flea Market and Auction, Outdoor	T	
Tattoo Parlor / Piercing Studio	P	
Teen Nightclub	C	
Utilities <u>Customer Service Center</u> ^[js1] <i>Facilities</i> <i>Well Sites</i>	<u>P</u> P P	
Vehicle and Equipment Sales, Leasing and Services <i>Fueling Facility, Alternative</i>	A	See Section 4.512
Wireless Communication Facility	C	
LI: Use is not permitted in existing commercial structures		

Use Classification	MU	Additional Regulations
L2: Drive-through restaurants are not permitted		
L3: Only as a use incidental to the principal use of the property		
L4: Less than 2,500 square feet		
L5: Permitted in conjunction with retail sales of products produced on the premises		
L6: Accessory Use to an established use		

2.504 Site Development Regulations

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

Standards	MU	Additional Regulations
Minimum Lot Area	1 acre	
Maximum Building Height (ft.)/(stories)	50/4	
Minimum Building Height (ft.)	20	
Building Step-back	Yes	(A)
Minimum Building Height (stories)	2	Does not apply to accessory structures
Maximum Building Setback (ft.)		
<i>Front</i>	10	
<i>Side (Corner)</i>	10	
Minimum Building Setback (ft.)		
<i>Side (Interior)</i>	0	
<i>Rear (Nonresidential)</i>	0	
<i>Rear (Residential)</i>	10	(B)
Minimum Parking Setback from Streets (ft.)	10	
Separation between Buildings (ft.)	0	If provided, minimum 10 ft.
Building Setback to Parking (ft.)	10	See Section 4.203.N
Exterior Lighting Standards, Maximum height (ft.)	15	See 4.2011.B.3
(A) Building Step-back. A building step-back of ten feet for those portions of the building above 3 stories or 35 feet is required.		
(B) Rear (Residential). Applies to adjacent properties that have a residential use.		

2.505 Additional Use and Development Regulations

- A. **Use Mix.** Each project shall have a minimum of 25 percent of the first floor square footage adjacent to a public street in retail, entertainment or eating and

drinking use. A minimum of 10 percent of the total square footage of each project shall be nonresidential use.

- B. **Transparency.** All structures adjacent to public streets shall have a minimum percentage of their length comprised of vision glass, including both window and door openings. The following transparency requirements shall apply:
1. **First Floor Front Elevation.** Front elevations shall have a minimum transparency of:
 - a. Residential. 30 percent.
 - b. Non-residential. 50 percent. The glass area shall remain 75% unobstructed from at least 24 inches above grade to 7 feet above grade, by signs, paper, blinds or other opaque window covering, except for temporary sun protection.
 2. **First Floor Corner Side Elevations.** Corner side elevations shall have a minimum of 30 percent of their length comprised of vision glass.
 3. **Elevations above the First Floor.** Street elevations above the first floor shall have a minimum of 30 percent of their length comprised of vision glass.
 4. **Historic Structures.** Notwithstanding the above provisions, landmarked buildings or buildings classified as Significant or Contributing in the *City of Batavia Historic Preservation Listing* shall continue their historic pattern and form of window and door openings.
- C. **Entrances.** Buildings shall have a minimum of one pedestrian entrance every 50 feet on elevations facing public streets. Entrances shall be functional and business entrances shall remain unlocked during regular business hours.
- D. **Accessory Structures.** Accessory structures shall comply with the following regulations:
1. **Establishment.** An accessory structure shall not be constructed prior to construction of a principal structure.
 2. **Location.** Accessory structures may be located:
 - a. Within the building envelope.
 - b. Within a required interior side or rear setback, but not within a required front or street side setback area.
 3. **Maximum Height.** The maximum height shall be 15 feet.

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

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

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

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

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

Chapter 2.6: Employment Districts

Sections:

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

2.601 Purposes

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

- A. Provide for a range of employment uses at appropriate intensities and locations.
- B. Protect areas for employment uses from incompatible uses.
- C. Protect adjacent uses from potential adverse impacts of employment uses by setting forth standards for compatibility.
- D. Provide for professional and general office uses at appropriate scales and locations.
- E. Establish a district for uses that combine service, retail and light industrial activities.
- F. Ensure land use compatibility with residential and other adjacent uses.
- G. Encourage quality and variety in building and landscape design.
- H. Improve the appearance of properties from public rights of way.

2.602 Land Use Regulations

The employment districts are:

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

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

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

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

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

2.603 Land Use Regulations

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

"P" designates permitted uses.

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

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

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

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

- B. **Unlisted Uses.** Uses are defined in Chapter 6: Use Definitions. If a proposed use is not listed in the Use Definitions, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.603: Land Use Regulations – Employment Districts below, or not assigned to a Use Definition pursuant to Section 2.603.B: Unlisted Uses, are prohibited.
- D. **Additional Development Regulations.** Additional use and development regulations for employment districts are set forth in Section 2.605: Additional Use and Development Regulations.

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

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

Table 2.603 Land Use Regulations – Employment Districts					
Use Classification	O	SB	LI	GI	Additional Regulations
<i>Hazardous Waste Disposal Facility</i>	--	--	--	C	
<i>Non-Hazardous Waste Collection and Transfer Facility</i>	--	--	--	P	
<i>Non-Hazardous Waste Disposal Facility</i>	--	--	--	C	
<i>Non-Hazardous Material Recycling Collection Facility</i>	--	--	--	C	
Wireless Communication Facilities	--	--	A	A	
Limitations					
L1:	Only as a use incidental to the principal use of the property.				
L2:	Drive-through facilities prohibited.				
L3:	Only as a use incidental to the principal use of the property. Retail uses shall not exceed 1000 sq. ft. Gross Floor Area (GFA).				
L4:	Permitted on properties with a principal structure. A Conditional Use for properties without a principal structure.				
L5:	Only as an incidental use to Vehicle Services, Light and Vehicle Services, Heavy. Motor Vehicle Sales and Leasing shall be conducted indoors and limited to 10 percent of the GFA of the principal use.				
L6:	Permitted as an Accessory Use to a Brewery Use				

2.604 Site Development Regulations

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

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

Table 2.604: Site Development Regulations – Employment Districts					
Standards	O	SB	LI	GI	
Front (Arterial street)	25	25	25	20	(F, G)
Front (Collector or local street)	20	20	10	10	(F, G)
Side (Arterial)	20	20	30	30	(F, G)
Side (Collector or local)	20	20	20	20	(F, G)
Side (Residential)	20	20	25	20	
Side (Commercial/Office/Public Facility/Institutional)	10	10	15	20	
Side (Employment)	10	10	0	0	(H)
Rear (Residential)	20	20	30	30	
Rear (Commercial/Office/ Public Facility/Institutional)	15	15	0/15	0/15	
Rear (Employment)	10	10	10	0/10	(H)
Landscaping (% of net lot area)	15	10	10	5	See Chapter 4.3
Additional Landscaping					(I)
Transitional Setback Landscaping					<u>As Specified by Required Setback.</u> See 4.303.N.4
Building Setback to Parking (ft.)					See Section 4.203.N
Off-Street Parking and Loading					See Chapter 4.2
Exterior Parking Light Standards, maximum height (ft.)	15	15	20	25	See Section 4.103
Exterior Storage Area Light Standards, maximum height (ft)	--	20	25	30	See Section 4.103
<p>A. Principal Building Height Increase. Principal Building height above that permitted in the O District may be granted through the issuance of a Conditional Use Permit pursuant to Chapter 5.4: Use Permits. This provision does not apply to Wireless Communication Facilities.</p> <p>B. Height Limitation Near Residential Properties. Principal Building height in the LI District is limited to 35 feet for portions of the building within 100 feet of a property designated for residential use in the Comprehensive Plan.</p> <p>C. Principal Building Step-Back for Offices. Office buildings shall be set back above the second floor by 1 foot for every 1 foot that the building exceeds 35 feet in height, up to a maximum of 10 feet.</p> <p>D. Employment Uses Adjacent to Residential Districts.</p> <ol style="list-style-type: none"> 1. Employment activity occurring within 50 feet of property designated for residential use in the Comprehensive Plan shall be conducted within an enclosed building. No part of the building within 50 feet of the residentially classified property shall contain bay or roll-up doors or similar service openings. 2. Office uses are limited to 25 feet in height for portions of the building within 50 feet of the property line adjacent to property designated for residential use in the Comprehensive Plan. <p>E. Accessory Buildings shall not be located in a required Principal Building Setback and not between the Principal Building and the Street, except in the LI and GI Districts the building may be located in the required Rear Setback when not adjacent to a property with residential zoning or land use designations, and not in the Minimum Required Perimeter Landscaped Area, but in no case closer than 10 feet to the property line.</p> <p>F. Outdoor Storage Adjacent to Streets. In the GI District all storage within 100 feet of a street shall be within an enclosed building or screened by a solid fence 8 feet in height.</p>					

Standards	O	SB	LI	GI	
G. Street Frontage Landscape. Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas and lighting.					
H. Zero Lot Line Landscape Requirements. Where a portion of a building is constructed on the property line, landscaping is required adjacent to that portion of the side or rear property line not occupied by the building.					
I. Additional Landscaping. Where a portion of a property in the LI and GI is visible from a residentially zoned property, the Plan Commission, through Design Review, may require additional landscaping to reduce visibility from the residential property.					

2.605 Additional Use and Development Regulations

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

- B. **Outdoor Storage and Contractors’ Yards.** In addition to the requirements set forth in Section 4.104: Outdoor Business Property Storage, outdoor storage areas and Contractors’ Yards shall comply with the following requirements. This section does not apply to Outdoor Personal Property Storage.
 - 1. Light Industrial District.
 - a. Area. No maximum.
 - b. Height of Fences and Stored Material. Fences enclosing outdoor storage areas shall be solid and a minimum of 6 and a maximum of 8 feet in height. Fences enclosing outdoor storage areas on properties adjacent to residential uses shall be 8 feet in height.
 - c. Outdoor Equipment Storage. Equipment such as forklifts, scissor lifts and boom trucks shall be retracted to the lowest possible height.
 - d. Location. Outdoor storage areas shall not be located in required landscape areas.

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

2. *General Industrial District.*

- a. Area. No maximum.
- b. Height of Fences. Fences enclosing outdoor storage areas shall be a minimum of 8 feet.
- c. Outdoor Equipment Storage. Equipment such as forklifts, scissor lifts and boom trucks shall be retracted to the lowest possible height.
- d. Location. Outdoor storage areas shall not be located in required landscape areas.
- e. Fence Design. Slats, boards, or pickets shall have a vertical orientation and a uniform finish.

3. *Service Business District.*

- a. Area. Outdoor storage areas shall not exceed 50% of the net lot area.
- b. Height of Fences and Stored Material. Fences enclosing outdoor storage areas shall be solid and a minimum of 6 and a maximum of 8 feet in height. Fences enclosing outdoor storage areas on properties adjacent to residential uses shall be 8 feet in height.
- c. Outdoor Equipment Storage. Equipment such as forklifts, scissor lifts and boom trucks shall be retracted to the lowest possible height.
- d. Location. Outdoor storage areas shall not be located in required landscape areas.

C. *Personal Property Storage.*

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

conducted in vehicles, trailers or other personal property stored in an Outdoor Personal Property Storage facility.

- D. **Residential Access Prohibited.** Use of employment zoned property to provide primary vehicular access to a residential use is prohibited.
- E. **Outdoor Dining Areas.** Uncovered outdoor dining areas are permitted within the required setback areas adjacent to street frontages, no closer than 10 feet from the property line. Permanent installations shall require Administrative Design Review approval.
- F. **Accessory Buildings.**
1. Number. One Accessory Building is allowed on a Light Industrial or General Industrial District Zoning Lot of 5 acres or less. One (1) additional accessory building is allowed for each additional 5 acres or portion thereof on the same Zoning Lot.
 2. Area. An Accessory Building cannot exceed 7% of the size of the Principal Structure on the Zoning Lot. On Zoning Lots containing Principal Structures in excess of 100,000 square feet, the Accessory Building may be a minimum of 7,000 square feet up to a maximum of 3% of the size of the Principal Structure, however, in no event can the Accessory Building exceed 10,000 square feet. ~~and cannot exceed 720 square feet.~~
 3. Vehicle Doors. Vehicle Doors shall not face a lot zoned for Residential Use or designated for Residential Use on the Comprehensive Plan Land Use Map.
 4. Lighting. Lighting, other than required by the Building Code shall not be attached to an Accessory Building.

Chapter 4.1: Site Regulations

Sections:

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

4.101 Encroachments into Building Setback and Interior Building Separation Areas

- A. The building setback areas in all districts shall remain unobstructed except where permitted by this Section.
- B. For single family uses in single family residential districts, these regulations are in addition to those set forth in Chapter 2.1: Single Family Residential Districts.
- C. For single family uses in single family residential districts, permitted encroachments into the required side clear area are set forth in Section 2.104.B: Side Clear Area.
- D. For all uses in single family residential districts, balconies, stairs, chimneys, canopies, covered patios, and awnings may encroach no more than 3 feet into any required building setback area, but in no event shall the encroachment be closer than 3 feet from the property line.
- E. For all uses in single family residential districts, uncovered decks not over 3 feet above grade may encroach into the rear setback to within 10 feet of the property line.
- F. In multi-family and nonresidential districts, canopies and awnings may encroach no more than 3 feet into any required building setback or interior building separation area.
- G. For single family uses in single family residential districts, bay windows may encroach no more than 3 feet into any required building setback area. A bay window encroachment shall not exceed 1/3 the length of the wall plane upon which it is located.

- H. Belt courses, cornices, window sills, quoins, and similar decorative architectural features may encroach no more than 18 inches into any required building setback or interior building separation area.
- I. Roof overhangs may encroach no more than 5 feet into a required side building setback or interior building separation area, but shall not be closer than 3 feet from a side property line.
- J. In single family residential districts, roof overhangs may encroach no more than 3 feet into a required front and rear building setback area.
- K. For single family uses in single family residential districts, covered porches may project up to 6 feet into the required front and corner side building setback areas. In no case shall the porch be set back less than 10 feet. Where the single family residence has a nonconforming front or corner side setback, a covered porch may extend up to 4 feet from the existing, nonconforming building.
- L. Fences, pursuant to Section 4.108: Fences.
- M. Freestanding signs may encroach into required building setback areas, pursuant to Chapter 4.4: Sign Regulations.
- N. Accessory structures may encroach into required side and rear building setback areas, pursuant to Section 2.106.A: Accessory Structures; Section 2.205.A: Accessory Structures; Section 2.305.A: Accessory Structures; Section 2.405.D and Section 2.505.D: Accessory Structures.
- O. Outdoor lighting fixtures may encroach into required building setback areas, pursuant to Chapter 4.103: Lighting Standards.
- P. Arbors and trellises may be located in any setback area. Arbors and trellises in excess of 6 feet in height shall be setback at least 5 feet from any property line.

4.102 Projections Above Height Limits

The following projections above base district height limits are permitted:

- A. Belfries, domes, chimneys, cupolas, skylights, clock towers and other similar structural elements not used for human occupancy, may project above the base district height limit, provided that they do not cover more than 20 percent of the roof area.
- B. Mechanical equipment and enclosures, elevator penthouses, ventilators, and other similar equipment, may project up to 5 feet above the base district height limit, but may not exceed the height of parapet walls.
- C. Theater scenery lofts only to the height necessary to accomplish their purpose.
- D. Church steeples, religious symbols, or similar elements on religious assembly

buildings.

- E. Flagpoles, pursuant to Section 4.402.G: Flagpoles.
- F. Wireless communications facilities, pursuant to Chapter 4.7: Wireless Communication Facilities.
- G. Over-the-Air Reception Devices, Large Satellite Dish Antennas and Amateur Radio Facilities pursuant to Chapter 4.8: Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities.

4.103 Lighting Standards

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

- 1. All outdoor fixtures, other than bollard or decorative lighting, shall be set back from all rights of way and property lines of parcels designated for residential use in the Comprehensive Plan by a minimum of:
 - a. 10 feet; or
 - b. a distance equal to the height of the fixture.
- 2. The only permitted outdoor light fixtures within required perimeter landscape areas separating nonresidential uses from residential uses and separating multi-family residential uses from single family residential uses shall be bollard lighting.
- 3. Parking lot and pole mounted security lighting shall not exceed a maximum height of 15 feet within:
 - a. 100 feet of a residential district boundary; or
 - b. 100 feet of land designated for residential use in the Comprehensive Plan.

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

- 4. Wall-mounted fixtures shall be a maximum height of 15 feet above grade, measured to the bottom of the light source. Wall-mounted security fixtures shall be full cutoff type.
- 5. Pole-mounted fixtures shall be full cutoff type only. Semi-cutoff pole-mounted fixtures are prohibited.
- 6. All lighting under fueling facility canopies, drive-through canopies,

customer loading canopies, and similar structures shall be fully recessed. No portion of the fixture shall project below the ceiling or soffit of the canopy structure.

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

4.104 Outdoor Business Property Storage

The purpose of this section is to regulate outdoor storage of business property. This section does not apply to Outdoor Personal Property Storage. Unless otherwise provided for in a specific base zoning district, outdoor storage shall comply with the following requirements:

- A. Business property storage shall be limited to inventory, stock, supplies, equipment, and similar material not displayed for sale, rental, or lease.
- B. The maximum percentage of a lot that may be used for outdoor storage is set forth in each base zoning district.
- C. Outdoor storage areas shall be enclosed by a solid fence or wall, except that the fence need not be solid in Industrial districts on a property where the an interior side or rear setback area abuts an interior side or rear setback area of a lot in an Industrial district.
- D. The height of the fence or wall is set forth in each base zoning district.
- E. Stored materials shall not exceed the height of the fence or wall, except in the General Industrial and Public Facilities/Institutional zoning districts.
- F. Outdoor storage areas in all districts shall not be located in a required landscape area.
- G. Outdoor storage areas are prohibited in building setback areas in all zoning districts, except in the Light Industrial and General Industrial districts.
- H. Outdoor storage areas shall be surfaced with concrete, asphalt, gravel, or other approved dust free surface.
- I. Unless otherwise required by the Fire Marshal, access aisles to outdoor storage areas shall be surfaced with a minimum of a 4-inch-thick road base on compacted soil with dust palliative to support emergency apparatus and to reduce particulate matter.
- J. All driveways accessing outdoor storage areas shall be paved with asphalt or concrete.
- K. All areas for vehicle parking or where vehicles maneuver to access storage areas shall be paved with asphalt or concrete.

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

4.105 Screening of Mechanical and Electrical Equipment

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

- 1. All nonresidential uses.
- 2. Residential uses in single family districts.
- 3. Multi-family residential uses.
- 4. Subdivision common area facilities.
- 5. Public facility and institutional uses.

- B. ***Equipment Subject to Screening Requirements.***

- 1. ***Nonresidential Uses.*** The following equipment shall be fully screened in accordance with this section:
 - a. Ground-, building-, and roof-mounted mechanical and utility equipment. Such equipment includes, but is not limited to, heating and air conditioning equipment, refrigeration equipment, electrical equipment and meters, storage tanks, transformers, backflow prevention devices, exhaust fans, and vents.
 - b. Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities are regulated by Chapter 4.8: Over-The-Air Reception Devices, Large Satellite Dishes, Satellite Earth Stations, and Amateur Radio Facilities.
 - c. Mechanical and electrical equipment listed in Section 4.105.B.1.a. shall be fully screened from view from public and private streets, areas accessible to the general public, and from areas shown for residential use in the Comprehensive Plan. If the Plan Commission, or for Administrative Design Review, the Community Development Director determines that the equipment will only be visible from permanently unoccupied areas, the screening requirement may be waived or modified. The screening method shall be depicted on plans submitted with applications for preliminary subdivision plats, design review and building permits.
 - d. Roof-mounted mechanical equipment shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the mechanical units. These building elements shall be an integral part of the building design.

- e. Utility equipment such as electric and gas meters, switch gear, junction boxes, and similar equipment shall be screened using architecturally compatible fences or landscaping. Utility panels shall be fully recessed into the building elevation and enclosed by lockable exterior doors, or shall be screened by a decorative fence equal to or exceeding the height of the panel.
 - f. Utility transformers and similar equipment shall be located to minimize their view from public streets, walkways, public and private parks, plazas, etc. These devices shall be located in areas that are not immediately adjacent to streets, driveways, parking lots, or public gathering areas. Where visible from these areas, the equipment shall be oriented so that it can be screened with berms, fences, landscaping, or a combination thereof, while maintaining required access to the equipment.
2. *Residential Uses in Single Family Districts.* Roof-mounted mechanical equipment is prohibited.
3. *Multi-Family Residential Uses:*
- a. Roof-mounted mechanical equipment shall be fully screened by a parapet wall or other building elements equal to or exceeding the height of the mechanical units. These building elements shall be an integral part of the building design.
 - b. Ground mounted mechanical equipment shall be screened from public and common area view by a decorative screen fence. The fence shall exceed the height of the equipment by at least 1 foot.

4.106 Refuse and Recycling Enclosures

- A. **Applicability.** Enclosures for refuse and recycling container storage are required for all multi-family residential and all nonresidential developments, except as otherwise provided in the City Code. Enclosures shall not be required for Refuse and Recycling Enclosures in the Service Business, Light Industrial, or General Industrial Districts when refuse and recycling containers are located in an Outdoor Storage Area that is fully enclosed by a fence, including a solid fence where required in the SB, Service Business, Light Industrial or General Industrial Zoning Districts.
- B. **Standards.** Refuse and recycling enclosures shall comply with the following requirements:
- 1. Refuse and recycling enclosures shall not be located in any required perimeter landscape area, stormwater management area or easement area.
 - 2. Refuse and recycling enclosures shall be set back a minimum of 3 feet from any access aisles, driveways, and travel ways.

3. Enclosure gates shall not open into any parking space or landscape area. Enclosure gates shall remain closed except when storage containers are being loaded or emptied.
4. Refuse and recycling enclosures shall be a minimum height of 6 feet and shall fully screen stored material, containers, compactors, and similar equipment from view.
5. Enclosures for refuse and recycling containers are not required within the Light Industrial and General Industrial districts when the containers are located within a gated, fenced area that is fully screened from public view.

C. **Materials and Design.** Refuse and recycling storage areas shall be constructed and maintained as follows:

1. Enclosures shall be constructed of solid masonry or concrete with a decorative exterior, except where permitted in 4.106.C.4.
2. Gates shall be constructed of solid heavy gauge metal or a heavy gauge metal frame with an opaque covering. Chain link and wood gates are prohibited.
3. Enclosures shall be protected from adjacent vehicle parking and driveways by a 6-inch, poured-in-place concrete curb, bollards painted to match the enclosure, or other approved method.
- 3.4. Refuse and Recycling Enclosures fully enclosed within a conforming Outdoor Storage Area in the Service Business, Light Industrial, or General Industrial the Service Business, Light Industrial or General Industrial Districts with a solid fence shall not be required to be constructed of masonry.

4.107 Swimming Pools

A. **Location**

1. *Single and Two Family Residential Districts.* Swimming pools on any single and two family residential lot shall be:
 - a. located in the rear yard;
 - b. set back 10 feet from any property line;
 - c. located outside of any recorded easement.
2. *Multifamily and Nonresidential Districts.* In any multifamily or nonresidential district, a swimming pool shall not be closer than 20 feet to

any property line.

3. *Public Swimming Pools.* No public swimming pool shall be located closer than 25 feet to any property line.

B. *Safety Barriers and Gates*

1. *Safety Barriers.* All swimming pools shall be enclosed by a safety barrier in accordance with the Batavia Building Code.
2. *Gates.* All gates shall be substantially the same height as the wall or the fence and shall be self-closing and self-latching.

4.108 Fences

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

A. *All Districts*

1. *Prohibited Fences.* Electric fences and razor wire are prohibited in all zoning districts.
2. *Finished Side.* The finished side of a fence shall face the exterior of the lot.
3. *Property Lines.* A fence may be located on a property line, but shall not cross the property line or connect with an adjacent fence without written consent of the adjacent property owner.
4. *Gate Required.* A fence, in the rear setback area of a double frontage lot, located within 10 feet of a right of way shall contain a gate or opening allowing passage. A maximum of one gate is required per zoning lot.
5. *Temporary Fencing.* Temporary fencing is permitted in conjunction with:
 - a. Construction sites.
 - b. Temporary uses pursuant to Section 4.509: Temporary Uses.
 - c. Special events, pursuant to a Special Event permit.
 - d. Dangerous or hazardous conditions as determined by the Building Commissioner or Fire Chief.
6. *Maintenance.* All fences shall be permanently maintained in good condition and repaired or replaced when necessary to ensure continued

compliance with the requirements of this section.

7. *Height.* Unless otherwise restricted herein, no fence shall exceed 14 feet in height.
8. *Ground Clearance.* Fences located in easements or areas designed for or used to convey stormwater shall have panels, pickets, or chain link/wire fabric located no closer than 2 inches above grade. Such fences that are constructed of masonry shall have openings to allow water passage.
9. *Stormwater Detention Fences.* Fences used to delineate stormwater detention areas shall have a maximum opacity of 50%.

B. Residential Districts

1. *Security Fences.* Barbed wire and similar fence types are prohibited.
2. *Front and Corner Side Setback Area Fences.* Fences within the required front and corner side setback areas shall not exceed a height of 3 feet. Fences constructed of chain link, chicken wire, hex netting or any other wire material are prohibited in residential front and corner side setback areas.
3. *Side or Rear Setback Area Fences.* Fences located in the side or rear setback area shall not exceed a height of 6 feet from finished grade on either side of the fence.
4. *Lot Line Fences.* Rear and side lot line fences on residential properties adjacent to commercial or industrially zoned properties or Strategic Regional Arterial Streets as designated in the Comprehensive Plan shall not exceed 8 feet in height.
5. *Recreational Fences.* Chain link or woven wire tennis and sport court fencing is permitted within the building envelope.

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

1. *Security Fences.* Barbed wire and similar fence types are prohibited.
2. *Front and Corner Side Setback Area Fences.* Fences within the required front and corner side setback areas shall not exceed a height of 3 feet.
3. *Side or Rear Setback Area Fences.* Fences located in the side or rear setback area shall not exceed a height of 8 feet from finished grade on either side of the fence, other than as required to screen loading or storage areas. Such screen fences shall not exceed a height of 14 feet.

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

D. *Employment Districts*

1. *Security Fences.* Barbed wire and similar fence types shall be located a minimum of 7 feet above adjacent grade.
2. *Fences in Front or Corner Side Setback.* A fence located in a front or corner side setback area shall:
 - a. be set back a minimum of 20 feet from the property line, and
 - b. not exceed a height of 6 feet.
3. *Side or Rear Setback Area Fences.* Fences located in the side or rear setback area, or other than on the side or rear property line when adjacent to property in the Limited Industrial or General Industrial districts, shall not exceed a height of 12 feet from finished grade on either side of the fence. A fence located on, or within 5 feet of a side or rear property line when adjacent to property not in the Limited Industrial or General Industrial districts cannot exceed 8 feet in height.
4. *Transitional Setback Adjacent to Residential Use.* A fence adjacent to a property designated for residential use in the Comprehensive Plan shall be provided and:
 - a. be of solid construction
 - b. be eight feet in height, and
 - c. be located on the property line, or
 - d. set back a minimum of 20 feet from the property line, with gate openings provided every 250 feet.

E. *Public Facility/Institutional District*

1. *Security Fences.* Barbed wire and similar fence types are prohibited, except where deemed necessary for Homeland Security purposes by the Planning and Zoning Officer.
2. *Front and Corner Side Setback Area Fences.* Fences within the required front and corner side setback areas shall not exceed a height of 3 feet.
3. *Side or Rear Setback Area Fences.* Fences located in the side or rear setback area shall not exceed a height of 8 feet from finished grade on

either side of the fence, other than as required to screen loading or storage areas. Such screen fences shall not exceed a height of 14 feet.

4. *Lot Line Fences.* Rear and side lot line fences adjacent to properties designated for residential use in the Comprehensive Plan shall not exceed 8 feet in height.
5. *Recreational Fences.* Tennis and athletic court fencing is permitted within the building envelope.

4.109 Recycling Collection Bins

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

4.110 Limitations for Structures on Easements

No structure, other than fences allowed by this Zoning Code, may be placed on Easements for Public Utility, Open Space, Conservation or Drainage purposes. Structures on all other easements shall be subject to the requirements specified in the easement document, except for pools which are prohibited by this Code on all easements.

Chapter 4.2: Off-Street Parking and Loading Regulations

Sections:

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

4.201 Purposes

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

- A. Ensure that adequate but not excessive parking is provided for new land uses and major alterations to existing uses to meet the parking needs created by such uses.
- B. Establish regulations for new uses, new or relocated buildings and buildings that have been altered or expanded.
- C. Ensure that off-street parking and loading areas are designed and located to protect the public safety, minimize congestion, reduce solar heat gain for unshaded parking areas, minimize traffic conflicts and congestion on parking aisles and public streets, and buffer surrounding land uses and public areas from visual and noise impacts.
- D. Ensure pedestrian-friendly parking areas by providing for safe pedestrian routes, parking lot lighting, adequately sized parking spaces and aisles, landscaping and shade trees.
- E. Provide for the accessibility needs and requirements of disabled and elderly persons.

4.202 Applicability

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

4.203 General Provisions

- A. **Required Parking.** All required parking shall be provided on site, except as provided in Section 4.203.G: Shared Parking and Section 4.203.I: Parking in the DMU Downtown Mixed Use Zoning District. The number of parking spaces required for individual uses in the Zoning Code is set forth in Section 4.204: Number of Parking Spaces Required. All parking required by this Chapter shall consist of a hard surface such as, but not limited to concrete, asphalt, pavers or permeable pavers.
- B. **Required Parking and Parking Lot Landscaping for Structures that are Altered.** The parking and parking lot landscaping requirements of this chapter shall apply when an alteration to an existing structure affects parking requirements conformity. When a nonconforming structure is altered, the non-conforming parking and landscaping shall be modified to reduce or eliminate non-conformity with this section. The percentage of the parking and landscaping that is permitted to remain non-conforming shall be determined by the Director of Community Development for Administrative Design Review and the Plan Commission for Design Review applications.
- C. **Uses Not Mentioned.** Parking requirements for a use not identified in this chapter shall be determined by the Planning and Zoning Officer based on parking requirements for the most similar use listed in Chapter 6: Use Definitions. The Planning and Zoning Officer may require submission of a parking study prepared by a person licensed to prepare such study.
- D. **Fractional Spaces.** If the number of parking spaces required in this chapter results in a fraction, the required number shall be rounded to the nearest whole number. For example, if the computed requirement equals 9.5 spaces, 10 spaces are required. If the computed requirement equals 9.4 spaces, 9 spaces are required.
- E. **Computation of Required Parking for Residential Use.** Residential parking for multi-family uses shall be based on the number of bedrooms. Any rooms defined as bedrooms by the City of Batavia Building Regulations shall be counted as a bedroom for the purpose of determining off-street parking requirements.
- F. **Visitor Parking.** On-street parking may be counted toward the visitor parking requirement for developments in the R2 Two Family, R3 Multi-Family Low Density, R4 Multi-Family Medium Density, and R5 Multi-Family High Density zoning districts provided that the street has a minimum 8.5 foot wide legal parking area exclusive of travel lanes. To qualify as one visitor parking space, there shall be an uninterrupted 22 foot long space and a sidewalk adjacent to the parking side of the street. The City may require on-street visitor parking spaces to be striped.

- G. **Shared Parking.** Where a use generates parking demand primarily during hours when an adjacent use or uses are not in operation or generate shared trips, a reduction of up to 50 percent of the required parking may be approved by Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes. The application for an Administrative Use Permit shall include:
1. Submission of a parking study prepared by a person licensed to prepare such study;
 2. Proposed documents for recordation of cross-easements for parking purposes satisfactory to the City Attorney; and
 3. Proposed documents satisfactory to the City Attorney to ensure maintenance of the shared parking spaces.
- H. **Deferred Parking for Unique Uses.** Where a business has or will have a unique parking demand, a deferral of up to 50 percent of the required parking may be approved by an Administrative Use Permit. The Administrative Use Permit shall terminate if the use changes, and shall specify the conditions under which the deferred parking will be required to be constructed. The application shall include:
1. A parking study prepared by a person licensed to prepare such study; and
 2. A site plan showing all required parking areas and parking areas proposed to be deferred.
- I. **Parking in the DMU Downtown Mixed Use Zoning District.** The following Section shall apply as requirements for the Downtown Mixed Use District.
1. **New Tenancies in an Existing Building.** On-site parking shall not be required for a new non-residential tenant, or for 4 or fewer residential units, in a building existing on the date of adoption of this code section.
 2. **Building Additions.** On-site parking shall not be required for a new non-residential tenant, or for 4 or fewer residential units, in that portion of a building existing on the date of adoption of this code section. Additional parking required for the expansion area shall be provided on-site, or off-site pursuant to this code.
 3. **New Buildings.** Parking required for the uses contained in the building shall be provided on-site. Off-site parking may be approved pursuant to this code.
 4. **Off-site Parking.** Where required parking spaces cannot be provided on-site, off-site parking may be approved by an Administrative Use Permit. The Administrative Use Permit may require the provision of a minimum number of on-site parking and loading spaces. The Administrative Use Permit shall terminate if the use changes. The application shall demonstrate that:

- a. The off-site parking spaces shall be located within 1,000 feet of the use.
- b. The off-site parking spaces shall be improved to the standards set forth in this Chapter.
- c. Cross-easements for parking shall be recorded in a form satisfactory to the City Attorney, or evidence provided of adequate public parking.

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

~~a.~~ ~~Perimeter wheel stops may be used~~

~~b.a.~~ Perimeter curb and gutter is not required

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

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

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

~~f.e.~~ No minimum total interior open space amount is required

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

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

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

- 1. The non-parking use complies with all license requirements.
- 2. The use does not occupy any parking spaces required by Table 4.204: Off-Street Parking Requirements of this Chapter.
- 3. The use does not interfere with fire or emergency vehicle access.

4. The use does not create a traffic hazard or interfere with vehicular or pedestrian circulation on the site.
 5. The use provides accessible parking in accordance with applicable laws.
 6. The non-parking use is conducted with written property owner authorization.
- K. ***Parking for Age Restricted Uses.*** A reduction in parking requirements for an age restricted residential use may be approved by an Administrative Use Permit where the project is restricted by covenant or deed restriction to an age restricted use. Any such approval shall be based on a parking study or other acceptable evidence that supports the requested parking reduction. In no event shall required parking be reduced below 0.5 parking spaces per dwelling unit. Parking requirements for the residential use shall revert to those specified in this Chapter if age restrictions are no longer in effect.
- L. ***Restrictions on Parking in Commercial and Office Districts***
1. Recreational vehicles, trailers, commercial vehicles or combinations of vehicles exceeding 21 feet in length, not owned or operated by a business on the property, shall not be parked within any property zoned Neighborhood, Community, or General Commercial, Mixed Use, Downtown Mixed Use, or Office, except for the purpose of loading, unloading, service, or patronizing a commercial use on the site; and
 2. In the Neighborhood, Community or General Commercial, Mixed Use, Downtown Mixed Use and Office districts, no vehicle shall be parked overnight and used for permanent or temporary habitation.
- M. ***Prohibited Parking.*** Parking shall be prohibited in the following locations:
1. Fire lanes.
 2. Required landscape areas.
 3. Unimproved properties or portions of properties in nonresidential and multi-family districts.
 4. Outside areas not designated for parking on an approved Design Review plan.
- N. ***Separation from Buildings.*** Parking spaces shall be separated from a nonresidential or multi-family building by:
1. A raised walkway of at least 4 feet in width exclusive of any overhang permitted in Section 4.203.O: Parking Overhang, or;

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

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

1. The overhang does not interfere with the base of any structure, raised planter, seating bench, fence, utility equipment, light pole or base, or landscaping.
2. The unobstructed width of the sidewalk, exclusive of the 30 inch overhang, is not less than 4 feet.
3. The allowable overhang does not reduce any landscape planter width below 5 feet.
4. No part of any parked vehicle extends beyond any property line.

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

~~Q. **Parking Wheel Stops.** Concrete, metal or plastic parking wheel stops held in place by steel posts or placed directly on the parking surface are prohibited.~~

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

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

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

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

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

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

1. One commercial vehicle with a manufacturer's gross vehicle weight rating of more than 10,000 pounds may be parked on residential lots or parcels 1 acre or larger, subject to the following conditions:
 - a. The vehicle shall be parked behind the rear wall plane of the main building on the lot or parcel.
 - b. The vehicle shall be parked no closer than 10 feet from any property line.
 - c. The vehicle shall be screened from view from streets and abutting property by a solid fence or landscaping.
2. One commercial vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or less may be parked on residential lots or parcels less than 1 acre, subject to the following conditions:
 - a. The vehicle shall not be parked in the required front or street side setback area; and
 - b. The vehicle shall be screened from view from streets and abutting property by a solid fence or landscaping.

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

1. One additional uncovered parking space may be constructed next to the driveway or adjacent to a garage or carport. On corner lots, the parking space shall not be constructed in the street side setback area.
2. The additional parking space permitted by this section shall comply with the following standards:
 - a. The parking space shall have a hard surface of asphalt, concrete, or pavers.
 - b. The surface may consist of 2 parallel concrete or cement strips. The area between such parallel strips shall be landscaped with vegetative ground cover.
 - c. The additional parking space shall be large enough so that no parked vehicle will obstruct or encroach on a sidewalk.
 - d. Access to the parking space shall be via a curb cut, rolled curb, or driveway.

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

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

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

1. All Districts. Storage of such materials shall be subject to the provisions of Section 4.203.J Temporary Use of Parking Area and the following restrictions. In all instances except in the Limited Industrial and General Industrial Districts and in buildings designed specifically for such storage, storage of materials is limited to use at the immediate site for that season and must be removed by April 15th. No salt or De-icing agents shall be stored in a location proximate to a storm sewer inlet so as to allow run-off from the stored material to enter the City storm system.
2. Residential Districts.
 - a. Single Family Districts. No snow removal equipment, salt or other de-icing agents shall be stored in a driveway, any parking lot, or open to the sky hard surface, or in a temporary covered structure in any single-family residential zoning district.
 - b. Multi-Family Residential Districts. Storage of snow removal equipment and salt and other de-icing agents shall be limited to the inside of buildings designed for such storage, or in parking areas no closer to streets than the mid-point between the building and the property line adjacent to streets.
3. Commercial, DMU, MU, PFI and POS Districts. Storage of snow removal equipment and salt and other de-icing agents shall be limited to the inside of buildings designed for such storage, or in parking areas no closer to streets than the mid-point between the building and the property line adjacent to streets.

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

4.204 Number of Parking Spaces Required

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

Table 4.204: Off-Street Parking Requirements	
Use Classification	Requirement (Gross Floor Area)
Agritainment	Determined by Planning and Zoning Officer
Ambulance Services	1 space per 250 sq. ft.
Animal Services	
<i>Animal Grooming</i>	1 space per 250 sq. ft.
<i>Animal Shelter</i>	1 space per 250 sq. ft.
<i>Feed and Tack Sales</i>	1 space per 350 sq. ft.
<i>Kennel</i>	1 space per 600 sq. ft.
<i>Large Animal Hospitals</i>	1 space per 300 sq. ft.
<i>Small Animal Clinics</i>	1 space per 250 sq. ft.
Automated Teller Machine	None required.
Automated Teller Machine, Remote	2 spaces per machine
Banks and Other Financial Institutions	1 space per 300 sq. ft.
Banquet Facility	1 space per 125 sq. ft. plus attended parking when demand exceeds supply
Bed and Breakfast Homes	2 enclosed spaces; plus 1 space per guest room
Building Maintenance Services	1 space per 300 sq. ft.
Building Material and Home Improvement Sales and Service, Retail	1 space per 250 sq. ft. for the first 75,000 sq. ft. 1 space for every 600 sq. ft. above 75,000 sq. ft.
Building Material and Home Improvement Sales and Service, Wholesale	1 space per 800 sq. ft.
Business Services	1 space per 250 sq. ft.
Call Center	1 space per 150 sq. ft.
Cannabis Cultivation Center	1 space per 1,000 sq. ft.
Cannabis Dispensary, Medical	1 space per 200 sq. ft., plus additional parking required as determined through the Conditional Use process
Cemetery	None required
Cemetery, Pet	None required
Clubs and Lodges	1 space per 200 sq. ft.
Colleges, Public Or Private	1 space per 200 sq. ft. of classroom and office area
Congregate Living Facility	.5 spaces per unit
Contractor's Yard	1 space per 250 sq. ft. of office area
Convention Center	Determined by Planning and Zoning Officer
Crematorium	1 space per 300 sq. ft.
Crop and Animal Raising, Commercial	None required

Table 4.204: Off-Street Parking Requirements	
Use Classification	Requirement (Gross Floor Area)
Crop Raising, Non-Commercial	None required
Cultural Institutions	1 space per 200 sq. ft.
Day Care Centers	1 space per 300 sq. ft.
Day Care Homes	No additional spaces required
Day Care, Residential	No additional spaces required
Dry Cleaning and Laundry Outlet	1 space per 250 sq. ft.
Dry Cleaning and Laundry Central Plant	1 space per 300 sq. ft.
Eating and Drinking Establishments <i>Bars/Night Clubs/Lounges/Dance Halls</i> <i>Restaurants, Full Service</i> <i>Restaurants, Limited Service</i>	1 space per 100 sq. ft. 1 space per 100 sq. ft. 1 space per 100 sq. ft.
Entertainment and Recreation, Indoor	1 space per 150 sq. ft. of indoor area
Entertainment and Recreation, Outdoor	2 spaces per court; 45 spaces per soccer field; 35 spaces per baseball or softball field; 1 space per batting cage; 2 spaces per miniature golf hole
Farm Stand	1 space per 50 sq. ft. of sales area
Farmers' Market	1 space per 50 sq. ft. of sales area
Food Preparation <i>Large-Scale</i> <i>Small-Scale</i>	1 space per 300 sq. ft. 1 space per 250 sq. ft.
Funeral and Undertaking Services	1 space per 150 sq. ft.
Garden Supply Stores and Plant Nurseries	1 space per 400 sq. ft. of sales and display area
Golf Course	5 spaces per hole
Government Offices and Facilities	1 space per 200 sq. ft.
Group Homes For The Handicapped	No additional spaces required
Haunted House	Determined by the Planning and Zoning Officer
Health Care Facilities <i>Hospital</i> <i>Urgent Care Facility</i> <i>Medical Offices And Clinics</i>	2 spaces per bed 1 space per 100 sq. ft. 1 space per 200 sq. ft.
Home Occupation	No additional parking required.
Homeowners Association Facilities	1 space per 250 sq. ft.
Hotels and Commercial Lodging	1.1 spaces per guest room, suite or unit; public eating and drinking establishments calculated separately
Instructional Services, Specialized	1 per 200 sq. ft. of instructional area
Laboratories, Commercial	1 space per 150 sq. ft.
Laundry Services	1 space per 250 sq. ft.
Maintenance and Repair Services	1 space per 300 sq. ft.
Manufacturing and Assembly <i>Artisan</i> <i>Light</i> <i>General</i> <i>Heavy</i>	1 space per 500 sq. ft. 1 space per 500 sq. ft. 1 space per 500 sq. ft. 1 space per 1,000 sq. ft.
Mining and Quarrying	1 space per 250 sq. ft. of office area
Nursing Home	0.5 spaces per bed
Offices, General	1 space per 250 sq. ft.
Pawn Shop	1 space per 250 sq. ft.
Personal Services	1 space per 200 sq. ft.

Table 4.204: Off-Street Parking Requirements	
Use Classification	Requirement (Gross Floor Area)
Public Safety Facilities	1 space per 250 sq. ft.
Recreational Vehicle Park	1 space per 100 sq. ft. of office area, plus 2 spaces per permanent residential unit
Religious Assembly	1 space per 100 sq. ft. of assembly area, plus 1 space per 200 sq. ft. of other indoor area
Research and Development	1 space per 250 sq. ft.
Residential, Permanent <i>Single Family</i>	2 spaces per unit
<i>Multi-Family</i>	1 space per studio unit 1.5 spaces per 1-bedroom; 2.25 spaces per 2 or more bedroom units;
<i>Secondary Dwelling</i>	1 additional space
Retail Sales, Convenience	1 space per 125 sq. ft.
Retail Sales, Furniture	1 space per 500 sq. ft.
Retail Sales, General	1 space per 250 sq. ft.
Sexually-Oriented Business	1 space per 250 sq. ft.
Schools, Public or Private	Elementary: 2 spaces per classroom Middle: 2 spaces per classroom High: 7 spaces per classroom
Shelter Care Facility	1 space per 500 sq. ft.
Shelter Care Facility, Homeless	1 space per 500 sq. ft.
Stables, Commercial	1 space per 2 horse stalls
Storage, Personal Property <i>Indoor</i> <i>Outdoor</i>	4 spaces plus 2 covered spaces per dwelling unit 2 covered spaces per dwelling unit
Swap Meet and Auction, Indoor	1 space per 200 sq. ft.
Swap Meet and Auction, Outdoor	1 space per 200 sq. ft. of sales area
Teen Nightclub	1 space per 200 sq. ft.
Transportation Passenger Terminals	Determined by Planning and Zoning Officer
Utilities <i>Facilities</i> <i>Service Yards</i> <i>Well Site</i>	1 space per 250 sq. ft. of office area 1 space per 250 sq. ft. of office area None required
Vehicle Equipment Sales, Leasing and Services <i>Car Wash, Automated or Self-Service</i> <i>Car Wash, Full Service</i>	2 spaces minimum 10 spaces minimum
<i>Commercial Vehicle/Equipment Sales and Rental; New and Used</i> <i>Fueling Facility</i> <i>Fueling Facility, Alternative</i> <i>Fueling Facility, Fleet</i> <i>Motor Vehicle Sales and Leasing, New and Used</i> <i>Non-Commercial Vehicle Rental</i> <i>Vehicle Services, Light and Heavy</i>	1 space per 250 square feet of indoor area 1 space per 125 sq. ft. of convenience retail sales, plus 2 spaces per pump 1 space per fueling station None required 1 space per 250 sq. ft. of interior office and display space; plus 1 space per 3 service bays 1 space per 100 sq. ft. 3 spaces per service bay plus 1 space per 100 sq. ft. of office and sales area

Table 4.204: Off-Street Parking Requirements	
Use Classification	Requirement (Gross Floor Area)
Warehousing <i>Freight/Truck Terminal and Warehouse</i> <i>Petroleum and Gas Storage</i> <i>Salvage or Junkyards</i> <i>Information</i>	1 space per 1000 sq. ft. plus 1 space per 250 sq. ft. office area 1 space per 250 sq. ft. of office area 1 space per 200 sq. ft. of office area 1 space per 250 sq. ft. of office and technician work space plus 1 space per 5,000 sq. ft. of area to store or distribute information
Waste Management <i>Hazardous Waste Collection and Transfer Facility</i> <i>Hazardous Waste Disposal Facility</i> <i>Non-Hazardous Waste Collection and Transfer Facility</i> <i>Non-Hazardous Waste Disposal Facility</i> <i>Non-Hazardous Material Recycling Collection Facility</i> Large Scale Small Scale	1 space per 250 sq. ft. of office area 1 space per 250 sq. ft. of office area 1 space per 250 sq. ft. of office area 1 space per 250 sq. ft. of office area 1 space per 250 sq. ft. of office area None required
Wireless Communication Facilities	None required

4.205 Dimensions for Parking Spaces and Aisles

- A. **General.** This section sets forth dimensional requirements for open parking spaces, covered parking spaces, and spaces in parking structures.
- B. **Open Parking Spaces.** The minimum dimensions of open parking spaces and parking aisles are set forth in Tables 4.205.A: Parking Space and Aisle Dimensions for Parking Angles Less Than 90 Degrees and 4.205.B: Parking Space and Aisle Dimensions for Perpendicular Parking Angles. For high turnover uses and uses utilizing shopping carts, space width shall be increased by 6 inches for 50 percent of the required parking spaces closest to the building entrances.
- C. **Unenclosed Covered Parking Spaces.** Each unenclosed covered parking space shall measure at least 9 feet in width and 19 feet in depth of unobstructed area. These measurements shall not include the exterior walls or supports of the cover structure. An unenclosed covered parking space shall have an unobstructed back-up area of not less than 25 feet.
- D. **Spaces in Garages and Parking Structures.** Each parking space in a garage and a parking structure shall measure at least 9 feet in width and 18 feet in depth. Parking structures shall have an unobstructed back-up area of not less than 24 feet.
- E. **Vertical Clearance for Unenclosed Covered Spaces and Parking Structures.** Covered parking and parking structures shall have a minimum vertical clearance of 8 feet.
- F. **Measurement.** The length of a parking stall is measured along the length of the side stripe defining the space. The width is measured at 90 degrees from the center of the side stripes or face of curb defining the space.

- G. **Angle Parking Less Than 90 Degrees.** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts.

Table 4.205.A: Parking Space and Aisle Dimensions for Parking Angles Less Than 90 Degrees (feet)			
<i>Space Angle</i>	<i>Aisle Width</i>	<i>Space Width</i>	<i>Space Length</i>
One-way			
0 degrees	12.0	10.0	22.0
30 degrees	15.0	9.0	19.0
45 degrees	16.0	9.0	19.0
60 degrees	17.0	9.0	19.0
Two Way			
0 degrees	20.0	10.0	22.0
30 degrees	20.0	9.0	19.0
45 degrees	22.0	9.0	19.0
60 degrees	24.0	9.0	19.0

- H. **Perpendicular Parking.** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts.

Table 4.205.B: Parking Space and Aisle Dimensions for Perpendicular Parking Angles (feet)			
<i>Space Angle</i>	<i>Aisle Width</i>	<i>Space Width</i>	<i>Space Length</i>
90 degrees	25.0	9.0	19.0
90 degrees	24.0	9.5	19.0

- I. **Angle Parking Less Than 90 Degrees in Parking Structures.** The following dimensions shall apply to all uses other than high turnover uses and those uses utilizing shopping carts.

Table 4.205.C: Parking Space and One-way Aisle Dimensions for Parking Angles Less Than 90 Degrees within Parking Structures (feet)			
<i>Space Angle</i>	<i>Aisle Width</i>	<i>Space Width</i>	<i>Space Length</i>
45 degrees	13.0	9.0	18.0
60 degrees	15.0	9.0	19.0

4.206 Parking Access

- A. **Nonresidential and Multi-Family Uses.**

1. *Ingress and Egress.* Each parking area shall have a driveway or driveways providing ingress to and egress from a public street. Parking in the Downtown Mixed Use district may be directly accessed from an alley.
2. *Parking Area Egress Aisles.* Parking area egress aisles shall be perpendicular to the public street ~~and level~~ for a distance of at least 20 feet behind the sidewalk or pedestrian crossing. In the DMU District, an appropriate separation will be determined with Design Review.

B. ***Residential Uses.***

1. Where a residential garage or carport is directly accessible from a street, it shall have a paved driveway not less than 20 feet in length, measured from the right-of-way. For private streets, the driveway length shall be measured from the back of sidewalk. If no sidewalk exists, the driveway length shall be measured from the back of curb or edge of pavement. This provision does not apply to side entry garages.
2. Where a residential garage or carport is directly accessible from an alley, it shall have a minimum paved driveway apron not less than 3 feet in length.

4.207 Driveway Widths

A. ***Single, Two and Attached Multi Family Residential Driveways accessing Individual Properties.*** A driveway is required for all vehicle accesses to individual residential properties, units, and garages. The minimum driveway width is 10 feet. The maximum width of a driveway for a:

1. Single car garage or for a driveway that does not access a garage shall be 14 feet.
2. Two or more car garage shall be 18 feet at the property line and shall not exceed the width of the garage door openings by more than 6 feet.

B. ***Other Driveways.***

1. *Non-industrially Zoned Properties.* Single lane driveways shall be a minimum of 14 feet and a maximum of 18 feet wide. Driveways shall be a minimum of 14 feet and a maximum of 18 feet wide. Driveways having more than one lane shall be a minimum of 12 feet wide per lane, and cannot exceed 40 feet wide, inclusive of barrier islands.
2. *Industrially Zoned Properties.* Driveways shall not exceed 40 feet in width, unless it is demonstrated through Administrative Design Review that additional width is needed to provide safe and efficient vehicle maneuvering space to accommodate existing conditions.

4.208 Surfacing

Except as otherwise provided in this section, parking areas and spaces, access points, aisles, driveways, and travel ways shall be paved with masonry, asphalt, or concrete. All required pavement marking shall remain visible.

- A. **Single Family Residential Driveways.** Single Family Residential driveways shall be improved with a concrete, asphalt or masonry surface. Driveways shall be setback a minimum of 1 foot from the property line, unless the driveway is shared by agreement between adjoining property owners.
- B. **Non-Residential Driveways.** that portion of a driveway within 100 feet of the right-of-way or private street, shall be improved with a concrete, asphalt, or masonry surface. The remainder of the driveway shall be constructed of concrete, masonry, asphalt, compacted gravel, or other approved dust free surface.
- C. **Alternative Paving Surface.** The Community Development Director may approve an alternative surface material for facilities that have limited or infrequent use.

4.209 Drive-Through and Take-Out Facilities

- A. **Drive-Through Facilities.**
 - 1. **General.** Drive-through facilities shall provide safe, unimpeded movement of vehicles at street access points, in travel aisles and parking areas. Drive-through aisles shall be a minimum of 20 feet in width to provide bypass capability. Drive-through aisles shall have a minimum interior turning radius of 15 feet and an exterior turning radius of 30 feet.
 - 2. **Screening.** Drive-through aisles shall be screened from view from public and private streets, areas accessible to the general public, and from areas shown for residential use in the Comprehensive Plan by:
 - a. A decorative masonry wall a minimum of 36 inches in height measured from the grade of the aisle; or
 - b. A continuous evergreen landscape planter a minimum of 4 feet in width; or
 - c. A combination of a masonry wall and landscape planter.
 - 3. **Stacking.** Vehicular stacking areas shall be provided in accordance with Table 4.209: Drive-Through Facility Stacking Space Requirements.

Table 4.209: Drive-Through Facility Stacking Space Requirements	
Use Classification	Stacking Space Requirement
Banks and Other Financial Institutions	2 spaces per teller or ATM drive-through
Eating and Drinking Establishments Restaurants, Limited Service	5 spaces

Use Classification	Stacking Space Requirement
Retail Sales, General <i>Pharmacy</i>	2 spaces per aisle
Vehicle Equipment Sales, Leasing and Services <i>Car Wash, Automated or Self-service</i> <i>Car Wash, Full Service</i>	2 spaces per bay 8 spaces minimum
<i>Fueling Facility</i>	1 space on each end of each side of each fuel pump island (one-way facilities require 2 spaces on approach end of each island.)
<i>Fueling Facility, Alternative</i>	1 space on each end of each side of each fuel pump island (one-way facilities require 1 space on approach end of each island.)
<i>Vehicle Services, Heavy</i>	1 space per service bay
<i>Vehicle Services, Light</i>	1 space per service bay

- B. **Take-Out Facilities.** Eating and Drinking Establishments providing a designated take-out counter, door or window shall identify one or more parking spaces adjacent to the take-out entrance for exclusive use by take-out customers.

4.210 Passenger Loading Areas

- A. **General.** Passenger loading areas shall be provided adjacent to the principal facility entrance or entrances and shall consist of vehicle turnout lanes located outside of access aisles. Passenger loading areas shall be identified exclusively for this use.
- B. **Loading Area Requirements.** Passenger loading shall be provided in accordance with Table 4.210: Passenger Loading Area Requirements.

Use Classification	Requirement
Banquet Facility	2 spaces
Clubs and Lodges	1 space
Congregate Living Facility	1 space
Conference Center	2 spaces
Cultural Institutions	1 space
Day Care Centers	1 space
Entertainment and Recreation, Indoor	3 spaces per skating rink or playing field 2 spaces per swimming pool 1 space per performing arts facility 1 space per 5 theater screens
Entertainment and Recreation, Outdoor (cont'd.) Entertainment and Recreation, Outdoor	2 spaces per swimming pool 1 space per sports field or court 3 spaces per amphitheatre
Government Offices and Facilities	1 space
Health Care Facilities	
<i>Hospitals</i>	2 spaces
<i>Urgent Care Facility</i>	1 space
<i>Medical Offices and Clinics (greater than 5,000</i>	1 space per 10,000 sq. ft.

Table 4.210: Passenger Loading Area Requirements	
Use Classification	Requirement
sq. ft.)	
Hotels and Commercial Lodging	2 spaces
Nursing Home	1 space
Religious Assembly	1 space per 10,000 sq. ft.
Schools, Public or Private	1 space per 200 students, based on design capacity.
¹ A passenger loading space is the area a vehicle occupies while loading or unloading passengers. A passenger loading space shall be a minimum of 12 feet in width and 20 feet in length.	

4.211 Screening, Landscaping and Lighting

A. **Screening.** Parking areas, automotive fuel pump islands, and parking access aisles parallel to and within 60 feet of rights-of-way shall be screened from view from those rights-of-way and public parks by landscaping or landscape berms, fences or screen walls.

1. *Landscape Screening*

- a. **Height.** Landscaping shall be planted and maintained as a continuous landscape hedge not less than 3 feet or more than 4 feet in height, measured from finish grade of the area to be screened.
- b. **Location.** The required landscape screening shall not be located in public rights-of-way.
- c. **Clearance.** The landscape screening shall be set back a minimum of 2 feet and a maximum of 6 feet from the perimeter of any parking space, driveway, or any access aisle.
- d. **Sight Distance Triangle.** Ground covers and shrubs planted within sight distance triangles shall not exceed a height of 24 inches at maturity.

2. *Berms*

- a. **Height.** Berms shall be not less than 3 feet or more than 4 feet, measured from finish grade of the area to be screened.
- b. **Location.** Berms shall not be located in public rights-of-way, or on top of any retaining walls.
- c. **Clearance.** The toe of the berm shall be set back a minimum of 2 feet and a maximum of 6 feet from the perimeter of parking space, driveway, sidewalk or any access aisle.
- d. **Slope.** The maximum slope of the berm shall not exceed 4:1.

3. *Parking Screen Walls*

- a. Height. Walls shall be not less than 3 feet or more than 4 feet, measured from finish grade of the parking lot.
- b. Location. Parking screen walls shall not be located in public rights-of-way, or on top of any retaining walls.
- c. Alignment. Walls shall be horizontally staggered a minimum of 1 foot for every 50 linear feet.
- d. Clearance. Walls shall be set back a minimum of 2 feet and a maximum of 6 feet from the perimeter of any parking space, driveway, or any access aisle, as measured from the back of curb.
- e. Materials and Finish. Walls shall be constructed of decorative block, brick, stone, or similar materials and finished on both the interior and the exterior elevations.

4. *Exceptions*

- a. A new wall shall not be required where an existing wall complies with the requirements of this section.
- b. A new wall shall not be required to screen outdoor display of new or used motor vehicles for sale or lease when such display area is identified on an approved Design Review site plan. Required customer, employee and visitor parking for these uses shall comply with the screening requirements of this section.

B. *Parking Lot Landscaping and Lighting.*

1. *Shade Trees*

- a. Shade trees shall be planted in the parking lot at a ratio of 1 tree for every 10 spaces. Trees shall be located throughout the parking lot to maximize the shading effect on parking spaces and to reduce summer solar heat gain. These trees are exclusive of trees planted around the perimeter of the parking lot.
- b. The landscape planter, other than a landscape diamond planter, for any shade tree, shall have a minimum area of 160 square feet, and a minimum interior width of 5 feet.
- c. Landscape diamond planters shall have a minimum area of 36 square feet, and shall not contain required shade trees.

- d. The minimum size of parking lot trees shall be a height of 6 feet and a minimum of a 2-1/2 inch single trunk caliper measurement, measured 4 feet above grade.
2. *Interior Landscaping*
 - a. A minimum of 10 percent of the interior of all parking lots shall be landscaped.
 - b. Required interior landscape areas shall be evenly distributed throughout the parking lot.
 - c. The end spaces in a row of parking spaces shall be separated from drive aisles by landscape islands or peninsulas that are a minimum width of 6 feet.
 3. *Light Poles.* Parking lot light poles shall be located in a landscape planter or incorporated into a walkway or other pedestrian area. Concrete bases for light poles shall not exceed a height of 18 inches from finished grade.

4.212 Parking Space and Aisle Setbacks at Driveway Entrances

- A. *Parking Setbacks.* Parking spaces directly served by a driveway accessed from a street shall be set back a minimum of 60 feet from the right-of-way. In the DMU District, an appropriate separation will be determined with Design Review.
- B. *Drive Aisle Setbacks.* Parking drive aisles intersecting and crossing a major driveway accessed from a street shall be set back a minimum of 40 feet from the arterial right-of-way. In the DMU District, said aisles shall be set back a minimum of 20 feet from an arterial right of way.

4.213 Parking for Persons with Disabilities

Parking for persons with disabilities shall comply with City, State and Federal regulations.

4.214 Off-Street Loading

- A. *Deliveries and Distribution.*
 1. *Applicability.* This Section applies to any use having a gross floor area of 10,000 square feet or more having the delivery or distribution of material or merchandise by trucks measuring 36 feet or more, including cab and trailer.
 2. *Requirement.* At least 1 off-street loading space shall be provided. One additional loading space shall be provided for each additional 40,000 square feet of gross floor area over 10,000 square feet. Required loading spaces shall be maintained during the existence of the use.
 3. *Standards.*

- a. *Location.* Loading spaces shall not be located in any required landscape area, and shall not encroach on fire lanes, required parking spaces or parking circulation aisles.
- b. *Dimensions.* Each required off-street loading space shall be not less than 12 feet wide and 45 feet long.
- c. *Clear Height.* Each required off-street loading space shall have a minimum clear height of 14 feet.
- d. *Screening.* Except in the Downtown Mixed Use District, each off-street loading space visible from a public street, within 200 feet of land designated for residential use on the Comprehensive Plan, or within 200 feet of land zoned for residential use shall be enclosed on three sides by a solid wall not less than 14 feet in height.
- e. *Maneuvering.* Truck -maneuvering areas shall not encroach into required parking spaces or rights-of-way.

B. Customer Loading Zones

1. *Applicability.* This Section applies to retail uses where customers take delivery of goods in non-commercial vehicles other than in designated parking spaces. Such uses are characterized by the sale of large or bulky items, and include home improvement, appliance, furniture, grocery, retail warehouse, and electronics stores.
2. *Requirement.* A customer loading zone shall be provided for any use listed in Section 4.214.B.1: Applicability and having a gross floor area of 20,000 square feet or more.
3. *Standards.*
 - a. *Location.* The loading zone shall be located within 50 feet of the primary exit or merchandise pick-up location.
 - b. *Dimensions.* A loading zone shall be a minimum width of 10 feet and a minimum length of 25 feet.
 - c. *Clear Height.* The loading zone shall have a minimum clear height of 14 feet.

4.215 Bicycle Parking

A. Requirement

1. *Minimum Requirement, All Uses.* Uses of land that are provide at least 40 vehicle parking spaces shall provide bicycle parking spaces and facilities at a rate of 1 for every 25 required vehicle parking spaces.

2. *Minimum Requirement, Uses with less than 40 Vehicle Parking Spaces.* A minimum of 2 bicycle parking spaces shall be provided for all uses, with the following exceptions:
 - a. Residential uses with private garages.
 - b. Personal Property Storage, Indoor and Outdoor
 - c. Other uses as determined by the Community Development Director.
3. *Bicycle Parking Location.* Bicycle parking shall be distributed throughout a multi-building project. Common or shared bicycle parking facilities may be provided for attached or in-line uses. Individual uses on separate lots shall provide bicycle parking facilities in accordance with Section 4.215.A.1: Minimum Requirement, All Uses and Section 4.215.A.2: Minimum Requirement, Uses with less than 40 Vehicle Parking Spaces.
4. *Maximum Requirement.* In no event shall any use other than schools be required to provide more than 20 bicycle parking spaces.

B. Standards

1. *Location.* Bicycle parking spaces shall be located on a paved surface within 50 feet of the primary building entrance. Bicycle parking spaces shall not encroach into pedestrian access areas.
2. *Dimensions.* Bicycle parking spaces shall measure 2 feet by 6 feet per space.
3. *Parking Facilities.* The bicycle parking facility shall be a stationary object permanently affixed to the ground or a structure to which the operator can lock the bicycle frame and wheels to the object. Bicycle lockers may be used.

4.216 Electric Vehicle Charging Station

- A. Applicability to Parking Requirements. Electric Charging Station parking spaces shall contribute to the number of parking spaces provided for the purpose of Zoning Compliance.
- B. Number Required. No minimum number of charging station parking spaces is required.
- C. Design Criteria
 1. Signage.

- a. One (1) sSignage, located at the Charging Station and not to exceed 6 feet in height or area, shall be posted designating a Charging Station for Electric Vehicles for charging purposes only.
- b. Limitations on hours of operation or charging shall be included if such limits are to be enforced.
- c. An additional sign of less than 6 feet in height and area may be displayed to provide instructions for a charging station.
- d. eContact information shall be provided for reporting purposes when equipment is not functioning or other problems are encountered.

2. Charging Station Equipment. Charging Station equipment and connection devices shall be not less than 36 inches and no higher than 48 inches from the ground or paved surface where mounted. Equipment shall include a cord retraction device or location to hang permanent cords and connectors in a manner safely above the ground. Cords shall not be located in a manner to impede pedestrian travel or create a trip hazard.

3. Equipment Protection. Charging Station Equipment shall be located behind a barrier curb in a landscape area or sidewalk area. If located in a parking area sufficient barrier protection from vehicle movements shall be provided by bollards, subject to approval by the Public Works Director or his designee.

D. Maintenance. Charging Station equipment shall be maintained in a safe and operational manner.

4. Access. In no case shall equipment be placed in a manner to not provide 36" of clear sidewalk.

3. 5. 2.

Chapter 4.3: Landscape Regulations

Sections:

- 4.301 Purposes
- 4.302 Applicability
- 4.303 General Provisions
- 4.304 Landscape Maintenance

4.301 Purposes

The purposes of these regulations are to:

- A. Promote attractive development.
- B. Improve the appearance and character of areas surrounding new development.
- C. Minimize urban heat island effect.
- D. Conserve energy by protecting buildings from exposure to the summer sun and winter wind, while allowing penetration of winter sun.
- E. Minimize conflicts between potentially incompatible land uses on adjoining property.
- F. Provide consistent landscape requirements for similarly situated properties.
- G. Screen site features such as parking, utility equipment, storage enclosure walls and fences, and other unattractive site features.
- H. Complement best stormwater management practices for water quality and groundwater recharge.
- I. Encourage water conservation through use of drought tolerant and native vegetation, and water conserving irrigation systems.

4.302 Applicability

These regulations shall apply to all construction subject to Chapter 5.6: Design Review, except for non-freestanding signs, and shall be in addition to the requirements for parking lots, per Section 4.211: Screening, Landscaping, and Lighting. These regulations are in addition to landscape provisions of the Standard Design Review Conditions for Commercial and Industrial Projects, and Multifamily Design Guidelines.

4.303 General Provisions

- A. ***Landscaping Components.*** Landscaping may include trees, shrubs, ornamental grasses, ground cover, vines, rain gardens, bioswales, private walkways, benches,

fountains, sculpture, and other materials used for enhancing the appearance of a site, development, or parking area.

- B. ***Installation per Approved Plans.*** All required landscaping shall be installed in accordance with the approved final landscape plan before issuance of a final Certificate of Occupancy. Plant materials shall be of the type and size specified on the approved final landscape plan.
- C. ***Minimum Area Requirements.*** The minimum landscaping area requirements for any nonresidential or multi-family lot or parcel, nonresidential subdivision, or nonresidential use in a residential district are set forth in the development regulations for each base zoning district.
- D. ***Street Frontage and Perimeter Landscape Requirements.*** The minimum street frontage and perimeter landscaping area requirements for any nonresidential or multi-family lot or parcel, residential or nonresidential subdivision, or nonresidential use in a residential district are set forth in the development regulations for each base zoning district.
- E. ***Parking Lot Landscape Requirements.*** The minimum landscape requirements for parking lot perimeters, interiors, and drive-through facilities are set forth in Chapter 4.2: Off-Street Parking and Loading Regulations,
- F. ***Undeveloped Areas in Approved Design Review Plans.*** Any portion of a lot or parcel shown on an approved final Design Review plan for buildings, parking, driveways or sidewalks not part of the initial construction phase shall be landscaped and shall be protected from unauthorized vehicular access.
- G. ***Irrigation.*** Irrigation is not required. If irrigation is used, it should be a programmable automatic system, employing the most water conserving design that includes rain or soil moisture sensing. Where possible, irrigations systems should make maximum use of reclaimed water.
- H. ***Pavement Edge and Planter Protection.*** All permanent uses other than individual single family residential lots shall provide a poured-in-place concrete curb or other approved material for all parking areas and drive aisles adjacent to landscaped areas.
- I. ***Minimum Tree Size.*** All trees planted pursuant to these regulations shall have a minimum size as follows:
 - 1. Evergreen tree height: 6 feet.
 - 2. Deciduous shade trees: Trunk caliper 2-1/2 inches measured 4 feet above grade.
 - 3. Ornamental trees:

- a. Single trunk size: Trunk caliper 2 inches measured 6 inches above the soil line.
 - b. Multiple trunks height: 6 feet.
- J. **Minimum Shrub Size.** All shrubs planted pursuant to these regulations shall be a minimum height of 18 inches at planting, or if planted to provide required screening, shall be planted at a height to provide effective screening. Up to 50% of the required shrubs may be substituted by ornamental grasses meeting the same height criteria.
- K. **Tree and Shrub Planting.** All trees shall be planted in accordance with American Standard for Nursery Stock, ANSI Z60.1 (latest edition).
- L. **Organic Ground Cover.** All areas containing flora other than turf grass, shall be covered by organic ground cover such as mulch. The depth of coverage of the organic material shall be a minimum of 3 inches.
- M. **Use of Drought Tolerant Vegetation.** All landscaping should be designed to minimize the need for irrigation. Vegetation that can withstand extended periods of dry soil, preferably native vegetation, should be a substantial component of any landscape plan. Such vegetation should be used to the maximum extent possible to achieve the desired landscape effect.
- N. **Perimeter Landscape Area Planting Standards.** All land area in the Minimum Required Perimeter Landscape Area established in each zoning district's Site Development Regulations, shall be landscaped, unless occupied by allowed encroachments. This landscaping is in addition to that required pursuant to Section 4.211: Off-Street Parking and Loading Regulations – Screening, Landscaping, and Lighting, and any landscaping used to complement freestanding signs. These regulations are in addition to landscape provisions of the Standard Design Review Conditions for Commercial and Industrial Projects, and Multifamily Design Guidelines. The following landscaping is required in the area adjacent to the property lines:
- 1. Trees with a minimum size specified in Section 4.303.I: Minimum Tree Size shall be planted in the quantity of 1 tree per 25 feet of lineal street frontage, exclusive of driveways. Trees shall be located as shown on an approved final landscape plan. All landscape plans shall include equal amounts of evergreen, deciduous shade and ornamental trees. A variety of species shall be used to avoid a monoculture.
 - 2. Shrubs with a minimum size specified in Section 4.303.J shall be planted to complement the placement of trees. Shrubs shall be planted at a minimum rate of 5 shrubs per tree.

3. Areas adjacent to streets shall be contoured with varying heights of berms where appropriate, to enhance landscaping design and screening ability.
 4. Where transitional setbacks are required by the base zoning district, tree quantities shall be increased by 50%, with a commensurate increase in the minimum shrub quantity. A minimum of 75% of the trees shall be evergreen trees. The Plan Commission, through Design Review, may consider a lesser ratio of evergreen trees if the required ratio is impractical. Where the required fence is not located on the lot line, all required transitional yard landscaping shall be located between the fence and the property line.
 5. Where parking screen walls are used, required shrubs shall be located on the side of the wall facing the exterior of the property.
- O. ***Raised Medians, Traffic Circles, and Roundabouts.*** Where raised medians, traffic circles, or roundabouts are proposed for roadways, the interior of these areas shall contain either decorative hardscape features or landscaping, in accordance with the following:
1. Interior spaces less than 5 feet in width or 8 feet in diameter shall be finished with stamped or stained concrete, or boulders cemented in place.
 2. Interior spaces equal to or greater than 5 feet in width or 8 feet in diameter shall be landscaped as follows:
 - a. Trees appropriate for parkway conditions shall be used;
 - b. Trees shall be planted at the same rate as that required for parkway trees, using the circumference of circular areas and the length of linear areas as the measurement base;
 - c. Six shrubs or appropriate ornamental grasses shall be required per tree; and
 - d. All planting spaces shall contain mulch; turf grass is prohibited.
- P. ***Parking Area Landscaping.*** Landscaping requirements for parking areas are set forth in Section 4.211: Screening, Landscaping and Lighting.
- Q. ***Stormwater Management Facilities.*** Stormwater Management facilities shall be landscaped pursuant to Title 11, Chapter 7: Stormwater Management Ordinance. Areas proximate to stormwater management facilities not subject to other landscaping requirements of this Section shall be landscaped in conformance with the landscape plan approved as part of a Design Review approval.
- R. ***Building Foundation Landscaping.*** In all non-residential zoning districts, except Downtown Mixed Use, landscaping shall be provided adjacent to building walls

that face public rights of way in accordance with the following:

1. Areas devoted to landscaping shall span a minimum of 40% of the length of the adjacent building wall.
 2. Areas devoted to landscaping shall be a minimum of 4 feet (interior dimension) in all directions.
 3. Areas devoted to landscaping shall contain a minimum of 3 shrubs having a minimum height of 18 inches at planting, or of a height sufficient to provide screening per the Standard Design Review Conditions for Commercial and Industrial Projects.
 4. For planting areas longer than 4 feet, shrubs meeting the minimum required size shall be planted at a rate of at least 3 shrubs for every 5 feet in length or fraction thereof.
- S. ***Freestanding Sign Landscaping.*** Areas around the base of all freestanding signs subject to Design Review and to a setback shall contain landscaping in accordance with the following:

1. ***Monument Signs.*** Monument sign landscaping shall be provided as follows:
 - a. One ornamental tree for every 50 square feet of area or fraction thereof of the structure that contains the freestanding sign, planted in a location proximate to the sign.
 - b. A mulched planting area extending a minimum of 5 feet from the base of the sign containing a minimum of 10 shrubs or ornamental grasses for each required tree, up to a maximum of 50.

c. The mulched planting area may be altered, reduced or eliminated through Administrative Design Review or Design Review to:

1. Replace a sign with nonconforming height or area to a conforming sign in the same location that does not meet the mulched area requirement, with all required plant material located elsewhere in reasonable proximity to the sign;

2. Balance visibility sign with an opportunity to provide some mulched area, with all required plant material located elsewhere in reasonable proximity to the sign-3 feet extending from the planting area if existing site geometry would not allow 5 feet on either side.

2. ***Tower Signs.*** Tower sign landscaping shall be provided as follows:
 - a. 1 overstory shade tree for every 50 square feet of area or fraction thereof of the structure that contains the freestanding sign, planted

in a location proximate to the sign.

- b. A mulched planting area extending a minimum of 10 feet from the base of the sign containing a minimum of 10 shrubs or ornamental grasses for each required tree, up to a maximum of 100.

4.304 Landscape Maintenance

- A. ***Landscape Maintenance During Construction.*** Existing plant material designated to remain on the approved landscape plan that is damaged during construction shall be replaced with comparable species and size before issuance of a final Certificate of Occupancy.
 1. ***Deciduous Shade Trees.*** Damaged deciduous shade trees with a trunk diameter greater than 6 inches shall be replaced with one or more like trees to equal the trunk diameter lost.
 2. ***Evergreen Trees and Ornamental Trees.*** Damaged evergreen and ornamental trees shall be replaced by one or more like trees to equal the height of the trees lost.
- B. ***Multi-Family Residential and Nonresidential Developments.*** Landscaping in multi-family residential and nonresidential developments shall be maintained by the property owner, lessor, and/or property owners association to the following standards:
 1. Landscaping shall be kept pruned, trimmed, mulched and watered.
 2. Dead plant material shall be removed and replaced with like materials.
 3. The landscaping shall be kept free of weeds and debris.
 4. Irrigation systems shall be in good working condition. Broken, leaking, or damaged irrigation systems shall be repaired within 24 hours.
 5. Screening landscaping shall be maintained to provide an effective visual barrier.
 6. Amenities shown on the approved landscape plan shall be maintained in good repair.
 7. Common area fences and the exterior face of property line fences shall be maintained in good condition.
- C. ***Maintenance of Landscaping of Common Areas in Single Family Residential Subdivisions.*** The following standards shall be maintained for landscaping of common areas in single family residential subdivisions:

1. Landscaped areas shall be maintained by the owner of the property, or if an association is present, the homeowners association (HOA). Maintenance shall include pruning, trimming, watering, removal and replacement of dead plant material, or other required improvements.
2. Landscaping shall be kept pruned, trimmed, mulched and watered.
3. Dead plant material shall be removed and replaced with like materials.
4. The landscaping shall be kept free of weeds and debris.
5. Irrigation systems shall be in good working condition. Broken, leaking, or damaged irrigation systems shall be repaired within 24 hours.
6. Screening landscaping shall be maintained to provide an effective visual barrier.
7. Amenities shown on the approved landscape plan shall be maintained in good repair.
8. Common area fences and the exterior face of property line fences shall be maintained in good condition.

Chapter 4.4: Sign Regulations

Sections:

- 4.401 Purpose and Necessity
- 4.402 General Sign Regulations
- 4.403 Sign Criteria
- 4.404 Real Estate Signs
- 4.405 Residential Zoning Districts and Uses
- 4.406 Nonresidential Uses in Residential Zoning Districts
- 4.407 Commercial and Other Use Districts
- 4.408 Office/Employment Zoning Districts
- 4.409 Parks and Open Space Zoning District
- 4.410 Removal of Signs on City Property or Right of Way
- 4.411 Removal of Hazardous Signs

4.401 Purpose and Necessity

- A. **Purpose.** The purpose of the sign regulations is to:
1. Establish comprehensive provisions that will assure proper and efficient expression through visual communications involving signs compatible with the character and environment of the City.
 2. Eliminate confusing, distracting, and unsafe signs.
 3. Enhance the visual environment of the City of Batavia.
- B. **Necessity.** The regulation of signs in the City of Batavia is necessary and in the public interest for the following reasons:
1. To promote and aid the public and private sectors in the identification, location, and advertisement of goods and services.
 2. To preserve the beauty and the unique character of the City of Batavia and to protect the City against visual blight.
 3. To protect property values in the City of Batavia by assuring the compatibility of surrounding land uses.
 4. To promote general safety and protect the public from damage or injury caused by, or partially attributed to, the distractions, hazards, and obstructions that result from dangerous, improperly designed or located signs.
 5. To promote the general welfare and to provide a pleasing environmental setting and community appearance which are vital to the continued economic development of the City.

6. To make signs compatible with overall City design objectives that are important in attracting new residents and business to the community.
7. To make signs readable in a clear, unambiguous, and concise manner.
8. To ensure signs are compatible with the planned character of the adjacent architecture and neighborhoods, and to provide the essential identity of, and direction to facilities in the community.
9. To emphasize the City's historical character by promoting pedestrian oriented and appropriately scaled signage in the Downtown Mixed Use zoning district.

4.402 General Sign Regulations

- A. **Requirement for Permit.** Except as provided in Section 4.402.D: Signs Not Requiring a Building Permit, it shall be unlawful for any person to construct, install, attach, place, paint, alter, relocate, or otherwise maintain any sign in the City without first obtaining a building permit in accordance with this Chapter.
- B. **Requirement of Conformity.** Signs shall not be installed, placed, or maintained in the City except in conformance with this Chapter. If provisions of this Chapter are in conflict with any other City code, the more restrictive requirement(s) shall apply. Signs maintained contrary to the provisions of this Chapter may be abated as provided by law.
- C. **Requirement for Design Review.** Except as specified below, all new permanent signs requiring a building permit shall receive Design Review approval.
 1. Signs shall be approved concurrent with building and site improvements as part of the Design Review process.
 2. New signs on properties with prior Design Review approval shall receive Administrative Design Review approval.
 3. Any new sign proposed on a property that is not subject to Design Review shall receive Administrative Design Review approval.
 4. Design Review shall not be required for permanent signs in historic districts or on landmark properties.
 5. Real Estate Signs requiring a building permit shall receive Administrative Design Review approval.
- D. **Signs Not Requiring a Building Permit.**
 1. One Building Identification Sign per building entrance, 6 square feet or less in area.
 2. Construction Signs, in compliance with Section 4.404.C: Construction Signs.

3. Garage Sale Signs, in compliance with Section 4.402.J: Garage Sale Signs.
 4. Legal notices, building or site identification signs, directional and traffic control signs erected or required by a governmental entity.
 5. Permanent parking signs 6 square feet or less in area and a maximum of 6 feet in height.
 6. Permanent informational signs 6 square feet or less in area.
 7. Signs for charitable, educational and community service organization special events, subject to locational approval by the Director. Signs shall be displayed no earlier than 14 days before the event and shall be removed no later than 2 days after the event ends.
 8. Real Estate Signs 6 square feet or less in area and a maximum of 5 feet in height, and in compliance with Section 4.404: Real Estate Signs.
 9. Ideological Signs, in compliance with Section 4.402.I: Ideological Signs.
 10. Nameplates, not exceeding two square feet.
 11. Political Signs, in compliance with Section 4.402.H: Political Signs.
 12. Residential Open House Signs 6 square feet or less in area and a maximum of 4 feet in height.
 13. Restaurant Menu Signs 6 square feet or less in area, not including Drive-Through Restaurant Menu Signs, displayed within 10 feet of the business entry.
 14. Required street addresses.
 15. Suspended Signs 6 square feet or less in area in commercial districts.
 16. Umbrella Signs
 17. Window Signs.
- E. **Maintenance of Conforming Signs.** Maintenance of conforming signs shall not require a permit. Sign maintenance is the replacement or repair of a part or portion of a sign required by ordinary wear, tear, or damage with like material, color, and design. Maintenance of conforming signs does not include changing the location, color, size, design, or style of signs.
- F. **Sign Panel Replacement.** Replacement of a panel containing the same design, color, opacity and style as the original on a sign structure with removable panels shall not require a permit. This includes the installation of a blank sign panel to replace a sign panel of a business no longer in operation.

G. ***Flagpoles***

1. *Design Review Required.* Flagpoles shall be depicted on Design Review plans for non-single family properties. Flagpoles shall receive Administrative Design Review approval.
2. *Height.* Flagpoles shall not exceed 1.5 times the height of the tallest building on the lot that it is located, but in no event shall a flagpole exceed a height of 35 feet.
3. A building permit shall be required for flagpoles.

H. ***Political Signs***

1. Political Signs are permitted in all zoning districts.
2. Political Signs up to 32 square feet are permitted.
3. Ground mounted political signs shall not exceed 4 feet in height.
4. Wall mounted political signs shall not exceed 15 feet in height.
5. Political signs shall not be located on public property.

I. ***Ideological Signs***

1. Ideological Signs are permitted in all zoning districts.
2. Ideological Signs up to 32 square feet are permitted.
3. Ground mounted ideological signs shall not exceed 4 feet in height.
4. Wall mounted ideological signs shall not exceed 15 feet in height.
5. Ideological signs shall not be located on public property.

J. ***Garage Sale Signs***

1. Garage Sale Signs shall not exceed 4 square feet in area.
2. Garage Sale signs may be displayed 24 hours before the sale begins. Signs shall be removed within 4 hours of the end of the sale.
3. Signs shall not be placed in a right-of-way.
4. The property owner shall be responsible for removing all signs at the end of the sale.

K. ***Interim Business Identification Banners***

1. A banner identifying a business is permitted from the date a business occupies the premise until the date of installation of permanent signage, provided the applicant has a pending sign permit application for

permanent signage and is diligently pursuing the manufacture and installation of such signage.

2. Interim Business Identification Banners shall be placed upon the building wall of the business.
 3. Interim Business Identification Banners shall not exceed the sign area permitted for permanent wall signs for the use, and shall not be displayed for a period exceeding 90 days.
- L. **Temporary Directional Signs.** Temporary Directional Signs for short or limited time events shall be permitted subject to the following regulations: Title 7-1-12: Parades, Processions and Open Air Meetings.
1. *Size.* Signs shall be no greater than 3 feet in height and 6 square feet in area.
 2. *Number.* No more than 4 signs shall be displayed on one property at any time.
 3. *Display.* Signs shall only be displayed up to 2 days before the event and shall be removed the following day.
 4. *Prohibition.* Temporary Directional Signs shall not be located:
 - a. On public property without permission of the owner
 - b. On fences, boulders, planters, other signs, vehicles, utility facilities, or any structure.
 5. *Location.* Signs may be located off-site and shall be placed at grade level. Signs shall be placed only with the permission of the owner of the property on which they are placed.
 6. *Construction and Placement.* Signs shall be:
 - a. Constructed of weather-resistant materials.
 - b. Anchored or weighted down to avoid being displaced in windy conditions, or to otherwise be a safety hazard to the public.
- M. **Address Signs**
1. Each dwelling unit shall be clearly identified by a street or unit number.
 2. Each nonresidential building or group of buildings shall be identified by a street number, visible from adjacent streets, not to exceed 6 square feet in area.
 3. Required address signage is not counted as a part of the total sign area permitted for a building or group of buildings.

N. ***Fueling Facility Price and Product Signs***

1. *Number.* Fueling facilities are permitted 1 monument sign advertising the brand, product and price of fuel, in lieu of monument signage otherwise permitted in Section 4.407.B.2 of this code.
2. *Height.* Signs shall be no greater than 8 feet in height.
3. *Area.* The sign area shall not exceed 60 square feet.
4. *Setback.* Signs shall be set back a minimum of 10 feet from the right-of-way.
5. *Changeable Message Signs.* No more than one-half (1/2) of the sign area may be a Changeable Message Sign subject to Design Review approval.

O. ***Time and Temperature Displays***

1. *Location.* Time and Temperature Signs may be incorporated into allowed sign area in non-residential districts.
2. *Alternating Displays.* Displays shall not alternate between time and temperature more frequently than once every 10 seconds.
3. *Time Displays.* Time signs shall not change more frequently than once every minute.

P. ***Prohibited Signs.*** All signs not expressly permitted by this Chapter shall be prohibited, including but not limited to:

1. Vehicle Signs advertising a business or other commercial activity, when the motor vehicle is not actively being used in the conduct of the business or the activity advertised, and when parked on or adjacent to a public street or other public property and not in immediate proximity to an entrance to the building housing the business advertised.
2. Flashing, blinking, reflective, or animated signs, including signs with an intermittent or varying color or intensity of artificial illumination, whether deliberate or as a consequence of a defect in the sign or the illumination source. *Changeable Message Signs, Fuel Facility Product and Price Signs* and *Time and Temperature Displays* are not considered flashing or animated signs.
3. Electronic *Changeable Message Signs*, other than *Fuel Facility Product and Price Signs* are prohibited in historic districts and on landmarked properties.
4. Moving signs, including the sign body or any segment thereof. Flags mounted on a permanent flagpole are not moving signs.

5. Signs that, by their shape, color, design, and placement, are likely to be confused with a traffic control sign or device.
6. Signs that advertise activities illegal under Federal, State, or local laws, rules, or regulations, except for signs advertising the sale of medical cannabis that are otherwise in accordance with this Title.
7. Signs installed, attached, or painted on fences, utility facilities, rocks, trees, or natural features.
8. Signs installed, attached, or painted on any object within the right-of-way, except as otherwise permitted by this Chapter.
9. Wall Signs that are painted directly on the wall or surface of a building or structure, except as otherwise permitted by this Chapter.
10. Portable Signs, except as otherwise permitted by this Chapter.
11. Roof Signs, except as otherwise permitted by this Chapter.
12. Billboards.
13. Wall-mounted Cabinet (Can) Signs and logos more than 6 square feet in area, unless:
 - a. Such sign is approved by Design Review, and
 - b. Such sign has a:
 - (1) Cabinet that is shaped to reflect the shape of the image printed on the sign face; or
 - (2) Molded sign face, with embossed copy or sign copy or sign copy in relief; or
 - (3) Nationally registered trademark with colored sign copy on a colored background.
14. Pole Signs, except as otherwise permitted by this Chapter.
15. Freestanding signs on properties having permitted, non-industrial uses in Industrial zoning districts
16. Projecting Signs, except as otherwise permitted by this Chapter.
17. Attention getting devices including, searchlights, pennants, banners, propellers, spinners, streamers, balloons and similar devices, and festoon lights except when festoon lights are used for an Outdoor Dining area, unless otherwise permitted by this Chapter.
18. Signs advertising a business no longer conducted or a product no longer offered on the premises where the sign is located.

19. Signs that obstruct visibility of any traffic control device or create a hazard to vehicular or pedestrian travel.
20. Awning and Canopy Signs unless otherwise permitted by this Chapter.
21. Off-Site Signage, except as otherwise permitted by this Chapter.
22. Signage on Accessory Structures is prohibited, except as otherwise permitted by this Chapter.

Q. *Nonconforming Signs*

1. Nonconforming signs may be repaired, subject to this Section.
2. If a nonconforming sign is damaged by any cause, including lack of maintenance, by more than 50 percent of its reproduction value, or is removed by any means, including “an act of God,” then such sign shall be rebuilt, repaired, or replaced only in conformance with the provisions of this Chapter and applicable provisions of the Building Code.
3. If a nonconforming sign that no longer advertises a current use remains, with or without copy, for a period of 90 days or more, it shall be presumed abandoned, and shall be removed after notice to the property owner, unless the property owner establishes facts sufficient to rebut the presumption of abandonment.
4. If a property or development is expanded or modified and such expansion or modification includes new signage, all nonconforming signs shall be removed or rebuilt to comply with the provisions of this Chapter.
5. Sign faces may be replaced on nonconforming signs.
6. Any change, other than sign face replacement, to a property that adds to or changes existing signage shall be prohibited until all nonconforming signs are removed or rebuilt in conformance with of this Chapter.

R. *Abandoned Signs.* Sign copy on abandoned signs shall be removed within 30 days of abandonment. The area where copy has been removed shall be restored in a manner approved by the Planning and Zoning Officer.

S. *No Discrimination Against Non-Commercial Signs.* Any permitted sign may contain a non-commercial message.

T. *Sign Height and Area:* Refer to Glossary of General Terms.

U. *Hours of Illumination.* Unless otherwise allowed by Ordinance or this Code, illuminated signs shall be turned off between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. The sign may be illuminated during these hours only while the business is open.

4.403 Sign Criteria

- A. ***Design of Permanent Signs.*** All permanent signs shall be compatible with the design of buildings and sites, reflecting the architectural style, building materials, textures, colors, and landscape elements of the project.
- B. ***Placement of Signs***
1. Except as provided in the Downtown Mixed Use zoning district, permanent signs shall not project into or over the public right-of-way.
 2. Signs or support structures shall not be located in such a manner that obstructs any door, fire escape, stairway, or any opening, exit, walkway, utility access or Fire Department connection.
 3. The lowest portion of any sign that extends over an area intended for pedestrian use shall not be less than 7 feet above finished grade. The lowest portion of any sign that extends over an area intended for vehicular use shall not be less than 14 feet above the finished grade.
 4. No sign shall be placed on any property without written consent of the owner or owner's authorized agent.
 5. Notwithstanding other provisions of this Chapter, no sign shall create a hazard to the safe movement of traffic by obstructing the vision of motorists, as determined by the City Engineer.
- C. ***Maintenance of Signs.*** Any sign or component of a sign that is in a damaged or deteriorated condition and constitutes a danger or hazard to public safety, or a visual blight, shall be promptly repaired or replaced. Surface materials and components shall be kept free of chipping, peeling, fading, cracks, holes, buckles, warps, splinters, or rusting visible from an adjacent property or street. Illuminated signs shall be maintained in good operating condition including prompt removal and replacement of all defective bulbs, light emitting diodes, fluorescent tubes, neon or other inert gas light segments, dead pixels, damaged or deteriorated electrical wiring, and malfunctioning control devices and related circuitry.
- D. ***Lighting.*** Exposed incandescent, fluorescent, metal halide, high- or low-pressure sodium bulbs, or mercury vapor light sources shall not be used as a source of sign illumination. All exterior light sources shall be shielded to prevent illumination trespass beyond the sign.
- E. ***Movement.*** Except for permitted flags and pennants, there shall be no movement or appearance of movement of the sign or any component thereof.

4.404 Real Estate Signs

- A. ***Real Estate Signs.*** Real Estate Signs advertising real property for sale, rent, or lease are considered temporary signs, and are permitted in any zoning district, subject to the following regulations:

1. **General Standards.** Real Estate Signs are permitted only on the property that is offered for sale or lease. One Real Estate Sign is permitted per street frontage. Placement of Real Estate Signs on public rights-of-way is prohibited. Off Premise Real Estate Signs are prohibited. Real Estate Signs 16 square feet or less in area shall be set back 5 feet from all property lines. Real Estate signs may be installed on a wall in location in compliance with Wall Sign Regulations for the base Zoning District subject to the size limitations specified in this Section.
 2. **Residential Zoning Districts.** Real Estate Signs shall not exceed 6 square feet in area and 4 feet in height.
 3. **Commercial and Office Zoning Districts.** Real Estate Signs shall not exceed 6 feet in height. Signs exceeding 16 square feet in area shall require Administrative Design Review approval and shall:
 - a. Be set back a minimum of 10 feet from all property lines and vehicle access drives;
 - b. Not exceed 32 square feet in area;
 - c. Be constructed of plywood or metal panels, with the entirety of the sign surface painted or covered by appliqué; and
 - d. Be supported by solid posts having a minimum diameter or width of 4 inches, with decorative cap, and finished in the same color as the background color of the sign.
 4. **Industrial Zoning Districts.** Real Estate Signs shall not exceed 32 square feet in area and 8 feet in height, and signs larger than 16 square feet shall be set back a minimum of 10 feet from rights-of-way.
- B. **Removal.** Real Estate Signs shall be removed from the site no later than 5 days after sale or lease of the property.
- C. **Construction Signs**
1. One Construction Sign is permitted on multi-family, commercial and industrial properties with a valid building permit. One additional Construction Sign is permitted for sites over 5 acres with more than 1 exterior street frontage. Construction Signs shall:
 - a. not exceed 32 square feet in area and 8 feet in height;
 - b. be set back a minimum distance of 10 feet from the property lines, unless zoning district regulations establish different standards; and
 - c. be removed within 5 days of the issuance of a final Certificate of Occupancy for the project.

2. One Construction Sign is permitted on one- or two-family residential properties with a valid building permit. Construction Signs shall:
 - a. not exceed 6 square feet in area and 4 feet in height;
 - b. be set back a minimum distance of 5 feet from the property lines; and
 - c. be removed within 5 days of the issuance of a Certificate of Occupancy for the project.

4.405 Residential Zoning Districts and Uses

The following regulations shall apply to all single family and multi-family residential zoning districts, as well as Mixed Use District (MU) parcels that do not contain non-residential uses.

- A. ***Single and Multi-Family Dwelling Units.*** Other than the address sign required pursuant to Section 4.402.M: Address Signs, each dwelling unit may have 1 residential name sign identifying the occupant, not to exceed 3 square feet in area.
- B. ***Residential Entry Signs.*** Residential Entry Signs are prohibited for single family residential properties or subdivisions. Residential Entry Signs are allowed for multiple family residentially zoned or Mixed Use properties containing one or more buildings with a total of more than 15 units subject to the following:
 1. *Number.* One (1) sign is allowed per multifamily residential development.
 2. *Height.* The sign shall not exceed 6 feet in height.
 3. *Area.* The sign shall not exceed 32 square feet in area.
 4. *Setback.* The sign shall be set back a minimum of 10 feet from the property line, right-of-way, and any vehicle use area.
 5. *Changeable Message Signs.* Changeable message signs are prohibited.
- C. ***Periodic Display of Banners and Advertising Flags in the R5 District.*** Banners and Advertising Flags are permitted once per calendar quarter for a period not to exceed 45 consecutive days. Such Banners and Flags may be located on an exterior building wall or may be mounted on freestanding signs or posts adjacent to streets, no closer than five feet from the right of way when the building is set back more than 50 feet from the right-of-way, and shall not exceed 6 feet in height. Banners and Advertising Flags shall not exceed a total area of 32 square feet.

4.406 Nonresidential Uses in Residential Zoning Districts

- A. ***Applicability.*** These regulations shall apply to nonresidential uses in residential zoning districts. Nothing herein shall be construed or applied in such a manner as to regulate signs for religious uses more restrictively than signs for non-religious uses in the same zoning district.

B. *Permanent Signs*

1. *Wall Signs*

- a. Applicability. Wall Signs are permitted on any exterior wall of the tenant or user space.
- b. Total Business Sign Area. Each tenant or user space shall be permitted a minimum Wall Sign area of 32 square feet. The maximum Wall Sign area permitted for a business shall be the greater of:
 - (1) The sign area calculated pursuant to Section 4.407.B.1.c: Sign Area Allowances per building elevation for the longest building elevation of the tenant or user space facing the street; or
 - (2) The sign area calculated pursuant to Section 4.407.B.1.c: Sign Area Allowances per building elevation for the length of the building elevation of the tenant or user space in which the principal entrance to the business is located.
- c. Wall Signs are permitted at a rate of 1 square foot of sign area for each 1 foot of the building elevation adjacent to the tenant space.
- d. Multi-Story Buildings. Wall Signs shall only be located on one floor of a multi-story building.
- e. Design. Wall Signs shall conform to the Standard Design Review Conditions for Commercial and Industrial Projects.
- f. Dimensions. The length of a Wall Sign shall not exceed 80 percent of the horizontal length of the exterior building elevation of a tenant space. The height of a Wall Sign shall not exceed 80 percent of the vertical dimension of the sign band or wall space on which the sign is placed.
- g. Placement and Scale. Wall Signs shall be placed in an area that is free of architectural details. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. The Plan Commission, through Design Review, may approve a sign higher than allowed if it finds unusual circumstances and that the sign placement does not visually crowd the top of the wall.
- h. Wall Signs Abutting Residential Uses. Wall Signs on building elevations that face properties designated for residential use in the Comprehensive Plan shall:
 - (1) not be illuminated;

- (2) not exceed 16 square feet in area; and
 - (3) be installed no higher than 14 feet above grade.
2. *Monument Signs.* Unless otherwise allowed within this code, monument signs shall be permitted as follows:
 - a. **Number.** One on-site Monument Sign is permitted for any lot or parcel with a minimum of 50 feet of street frontage.
 - b. **Size.** Signs shall be no greater than 32 square feet in area and 6 feet in height.
 - c. **Setback.** Signs shall be set back a minimum of 10 feet from the right-of-way.
 - d. **Changeable Message Signs.** One-half (1/2) a monument sign area may be a Changeable Message Sign, subject to Design Review approval.
3. *Directional Signs:*
 - a. **Size.** Signs shall be no greater than 3 square feet in area and 3 feet in height.
 - b. **Setback.** Signs shall be set back a minimum of 10 feet from the right-of-way.
4. *Temporary Signs.* Temporary Signs shall comply with the following regulations:
 - a. **Initial Display of Banners and Advertising Flags.** Banners and advertising flags are permitted once during the first year of operation of a use, for a period not to exceed 90 consecutive calendar days and commencing not earlier than 30 days prior to the first day of operation of the use. Such Banners and flags shall be located on the exterior building wall of the tenant space to which they are appurtenant and shall not exceed a total area of 32 square feet.
 - b. **Periodic Display of Banners and Advertising Flags.** Banners and advertising flags are permitted for a period not to exceed 14 consecutive days per calendar quarter. Such Banners and flags shall be located on the exterior building wall of the space to which they are appurtenant, and shall not exceed a total area of 32 square feet.
5. *Homeowners Association Facilities Temporary Signs.* Temporary Signs for Homeowners Association Facilities shall comply with the following regulations:

- a. **Applicability.** Banners and Directional Signs for Homeowners Association Facilities are permitted that display information concerning seasonal or temporary events occurring in or for the operation of the development.
- b. **Sign Area and Location.** A maximum of 32 square feet of sign area is permitted within the limits of the residential community.
- c. **Installation and Removal.** Signs shall be installed no earlier than 14 days before the date of an event and shall be removed within 48 hours of completion of the event.
- d. **Materials.** Signs shall be constructed of lightweight, weather-resistant material.
- e. **Placement.** The regulations of Section 4.402: General Sign Regulations and Section 4.403.B: Placement of Signs shall apply.

4.407 Commercial and Other Use Districts

- A. **Applicability.** The following regulations shall apply to the following zoning districts: DMU, PFI, NC, CC, GC districts and MU parcels that contain non-residential uses.
- B. **Permanent Signs.** Signs shall comply with the Design Review, or Administrative Design Review, if applicable, subject to the following regulations:
 1. **Wall Signs**
 - a. **Applicability.** Except as otherwise provided in this code, Wall Signs are permitted for first and second floor tenant spaces only on any exterior wall of the tenant or user space.
 - b. **Sign Length.** The length of a Wall Sign shall not exceed 80 percent of the horizontal length of the exterior building elevation of a tenant space.
 - c. **Placement and Height.** Wall Signs shall be placed on an area that is free of architectural details. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. The Plan Commission, through Design Review, may approve a sign higher than allowed if it finds unusual circumstances and that the sign placement does not visually crowd the top of the wall.
 - d. **Total Business Sign Area.** Each business shall be permitted a minimum Wall Sign area of 24 square feet. The maximum Wall Sign area permitted for a business shall be the greater of:
 - (1) the sign area calculated pursuant to Section 4.407.B.1.e: Sign Area Allowances per Building Elevation for the

- longest building elevation of the tenant or user space facing the street; or
- (2) the sign area calculated pursuant to Section 4.407.B.1.e: Sign Area Allowances per Building Elevation for the length of the building elevation of the tenant or user space in which the principal entrance to the business is located.
- e. Sign Area Allowances per Building Elevation. Wall Signs are permitted at a rate of:
- (1) In the GC District, 2 square feet of sign area for each 1 lineal foot of the building elevation adjacent to the tenant space.
 - (2) In the CC, DMU and MU districts, 1 and ½ square feet of sign area for each lineal feet of the building elevation adjacent to the tenant space.
 - (3) In the PFI and NC districts, 1 square foot of sign area for each lineal foot of the building elevation adjacent to the tenant space.
- f. Multi-Story Buildings. Wall Signs on a multi-story building shall be limited to the first and second floors and shall conform to criteria set forth below, in addition to all other wall sign criteria in Section 4.407.B.1.
- (1) Individual Building Identification Signs located on buildings two or more stories in height shall not exceed 75 square feet in area.
 - (2) Sign area allowance for first and second floor tenants is subject to the provisions of Sections 4.407.B.1.d: Total Business Sign Area and 4.407.B.1e: Sign Area Allowances per Building Elevation.
- g. Wall Signs Abutting Residential Uses. Wall Signs on building elevations that face properties designated for residential use in the Comprehensive Plan shall:
- (1) not be illuminated;
 - (2) not exceed 16 square feet in area; and
 - (3) be installed no higher than 14 feet above grade.
- h. Projecting Signs. Projecting Signs are permitted in the Downtown Mixed Use and Mixed Use districts, subject to the following criteria:

- (1) Location. One projecting sign is permitted on each principal building for each street frontage. For buildings located at an intersection, one 45-degree projecting corner sign is permitted in lieu of 2 frontage projecting signs. An additional sign is allowed for a separate tenant space on a street frontage for every 50 feet of additional frontage.
 - (2) Placement. No sign shall project more than 5 feet from the face of the building, nor encroach closer than 2 feet from the face of a curb on a public or private street. No sign shall be higher than 5 feet below the top of a parapet wall, the top of a hip or gable roof, or 25 feet above grade, whichever is lower. Projecting signs shall be located in such a manner as to complement architectural features of the building.
 - (3) Clearance. All projecting signs shall maintain a 10 foot vertical clearance from a public ~~or private~~ sidewalk, walkway or path. A projecting sign shall maintain a 8 foot vertical clearance from a private sidewalk,, walkway or path.
 - (4) Approval. All projecting signs in the DMU district shall receive a certificate of appropriateness from the Historic Preservation Commission (HPC) before issuance of a building permit. In reviewing the application the HPC shall ensure that, as nearly as possible, the objectives listed in subsections h(5): Design, and h(7): Lighting, of this section, are met.
 - (5) Design. Projecting signs shall reflect the character of the downtown historic district in materials, colors, scale, proportion, location and general design.
 - (6) Size. Projecting signs shall be subject to the maximum size limitation of wall signs and shall be included as part of the total allowed wall sign area for a building. Only one side of a projecting sign shall count toward allowable sign area.
 - (7) Lighting. Projecting signs may be illuminated in a manner that does not detract from the historic character of the building or the neighborhood.
- i. **Painted Wall Signs.** Painted Wall Signs are permitted in the, Downtown Mixed Use District (DMU) subject to the following regulations:
- (1) Permit Required. Businesses displaying a Painted Sign shall obtain Certificate of Appropriateness approval and a

building permit prior to the application of the sign to a surface. The application shall depict the proposed sign design elements, text, colors and area.

- (2) Location. A Painted Wall Sign is prohibited on any masonry surface of any building. A painted sign may only be placed on a non-porous material or metal surface.
- (3) Placement. Painted Wall Signs shall be subject to the maximum size limitation of Wall Signs and shall be included as part of the total allowed wall sign area for a building.
- (4) Design. Projecting signs shall reflect the character of the downtown historic district in materials, colors, scale, proportion, location and general design

2. *Freestanding Signs*

a. Monument Signs

- (1) Number. One on-site Monument Sign is permitted for any lot or parcel with the following minimum street frontages:
 - i. a minimum of 50 feet of street frontage in the DMU district. No additional Monument Sign is permitted.
 - ii. a minimum of 100 feet of street frontage in the PFI, NC, CC, GC districts and MU parcels that contain non-residential uses. One additional Monument Sign is permitted for each additional 300 feet of street frontage on the same lot or parcel.
- (2) Height. Signs shall be no greater than 6 feet in height.
- (3) Area. For buildings whose setback is less than 75 feet from the right-of-way, the monument sign area shall not exceed 32 square feet. For buildings whose minimum setback is at least 75 feet from the right-of-way, the monument sign area shall not exceed 60 square feet.
- (4) Setback. Signs shall be set back from the right of way or back of curb of a private street a minimum of:
 - i. 0 feet in the DMU District.
 - ii. 10 feet in the PFI, NC, CC, GC Districts and MU parcels that contain non-residential uses.

- (5) Changeable Message Signs. One-half (1/2) of the sign face of a monument sign may be a Changeable Message Sign, subject to Design Review approval.
- b. Tower Signs. Tower Signs are permitted in the General Commercial zoning district for retail centers exceeding 10 net acres, as follows:
- (1) Number. One on-site Tower Sign is permitted for each 600 feet of street frontage, provided the total number of all Freestanding Signs, including Monument Signs, shall not exceed 1 sign per 300 feet of street frontage.
 - (2) Height. Tower Signs shall not exceed a maximum height of 20 feet.
 - (3) Area. The maximum area permitted for a Tower Sign shall be 80 square feet.
 - (4) Setback. Tower Signs shall be set back a minimum of 10 feet from the right-of-way or back of curb of a private street.
- c. Directory Signs
- (1) Number. One sign shall be permitted for each 5 commercial tenants or uses.
 - (2) Size. Signs shall be no greater than 24 square feet in area and 6 feet in height.
 - (3) Setback. Signs shall be set back a minimum of 75 feet from any perimeter property line, except where such property line abuts other commercial or employment development and there is a cross-access between the commercial or employment properties.
 - (4) Location. Directory Signs shall only be installed in landscape islands or pedestrian areas.
- d. Directional Signs. Directional Signs are not counted as part of the total sign area for a use and shall comply with the following regulations:
- (1) Applicability. Directional Signs are permitted to assist in traffic movement on a property. Directional Signs shall include an arrow, and may include copy to read "Enter", "Exit" or "Drive-Through" or similar language and a single business logo.

- (2) Size. Signs shall be no greater than 3 square feet in area and 3 feet in height.
 - (3) Setback. Signs shall be set back a minimum of 10 feet from the right-of-way and 3 feet from the back of curb of a private street.
- e. Signs on Accessory Entry Monuments. Signs for center or project identification are permitted on accessory entry monuments for multiple-tenant projects exceeding 10 net acres, subject to Design Review approval.
- (1) Area. Signs shall not occupy more than 50 percent of the area of the structure.
 - (2) Spacing. Signs shall maintain a minimum spacing of 100 feet from any other freestanding sign.
- f. Service Station Canopy Signs
- (1) Number. The maximum number of signs attached to a canopy shall be 2.
 - (2) Area. Canopy Signage shall count toward total allowable wall sign area.
 - (3) Projection. No part of the sign shall project from a canopy wall by more than 2 inches.
 - (4) Placement and Scale. The sign shall be vertically centered on the face of the canopy and be a minimum of 3 inches from both the top and bottom.
- g. Electronic Changeable Message Signs. Where permitted by this Chapter, the Plan Commission, through Design Review, may approve an electronic Changeable Message Sign and may establish operational restrictions. Operational restrictions include, but are not limited to, the frequency and type of message change and intensity of illumination. The Plan Commission shall consider the visual impacts of the sign on the uses surrounding the sign location, and traffic volume, movements and speed in the area of the sign.

The operation of electronic Changeable Message Signs subject to regulation are:

- (1) Static. The Plan Commission, through Design Review approval, shall establish the minimum time interval permitted between static message changes as a part of the approval of the sign.

- (2) Fade/Dissolve. Images that fade and/or dissolve are prohibited.
 - (3) Travel/Scroll. Travelling and scrolling sign messages are prohibited.
 - (4) Animated. Animated sign messages are prohibited.
 - h. Gas Station Pump-Topper or Spanner Signs. Pump-Topper and Spanner Signs shall be approved by Design Review or Administrative Design Review. Colors, materials, placement, and dimensions shall complement the design and scale of the canopy structure and the main building
 - i. Drive-Through Restaurant Menu Signs
 - (1) Number. Drive-Through Restaurant Menu Signs shall be limited to 2 per drive-through lane.
 - (2) Area. Signs shall be no greater than 50 square feet in area and 7 feet in height.
 - (3) Location. Location shall be approved through Design Review as part of a Design Review plan.
 - (4) Design. Drive-Through Restaurant Menu Signs shall be constructed with a solid base, complimenting the materials and colors of the restaurant.
- C. **Temporary Signs.** Temporary Signs are permitted subject to the following regulations:
- 1. *Initial Display of Banners and Advertising Flags.* Banners and advertising Flags are permitted once during the first year of operation of a use for a period not to exceed 90 consecutive calendar days and commencing not earlier than 30 days prior to the first day of operation of the use. Such Banners and Flags shall be located on the exterior building wall of the tenant space to which they are appurtenant and shall not exceed a total area of:
 - a. 32 square feet for occupancies up to 25,000 square feet; or
 - b. 64 square feet for occupancies greater than 25,000 square feet.
 - 2. *Periodic Display of Banners and Advertising Flags in the DMU, NC, CC, GC and MU districts.* Banners and Advertising Flags are permitted for a period not to exceed 30 consecutive days per calendar quarter. Such Banners and Flags shall be located on the exterior building wall of the tenant space to which they are appurtenant. Banners and Advertising Flags shall not exceed a total area of:

- a. 32 square feet for occupancies up to 25,000 square feet; or
 - b. 64 square feet for occupancies greater than 25,000 square feet.
3. *Periodic Display of Banners and Advertising Flags in the PFI District.* Banners and Advertising Flags are permitted once per calendar quarter for a period not to exceed 45 consecutive days . Such Banners and Flags may be located on an exterior building wall or may be mounted on freestanding signs or posts adjacent to streets, no closer than five feet from the right of way when the building is set back more than 50 feet from the right-of-way, and shall not exceed 6 feet in height. Banners and Advertising Flags shall not exceed a total area of 32 square feet.
4. *Additional Temporary Signs Related to Construction Projects that Reduce Accessibility.*
- a. *Purpose.* During periods of construction activity that reduce accessibility to non-residential properties, owners of affected properties may need special signage to identify and to direct customers safely to their businesses. The City will also have a need for identification of traffic routes, parking areas and special events in the impacted area. The purpose of the Section is to allow increased temporary signage opportunity that is not otherwise allowed in this Chapter during a project of impact, as defined by City Council action. This Section will allow signs designed and located in such a manner as to maximize their effectiveness while minimally affecting construction activity and detracting from the appearance of the City.
 - b. *Properties Affected.* By Resolution, the City Council shall establish the specific properties subject to the rights and restrictions of this Section, as identified on a map that will be attached to said Resolution as an Exhibit, and the duration of those rights and restrictions. The duration shall be generally from the commencement of construction until construction is completed, so that full vehicle and pedestrian access is restored to a majority of the properties on the corresponding map.
 - c. *Permits Required.* A building permit must be applied for and issued for any sign allowed subject to this Section. The sign shall display a current City decal issued with the building permit.
 - d. *Sign Removal.* All signs installed pursuant to this Section must be removed no later than thirty (30) days after the City informs each permittee that the sign must be removed as set forth by the terms of the Resolution specified in Section 4.407.C.4.b.
 - e. *Signs Allowed.* Notwithstanding sign regulations herein to the contrary, signs deviating from those otherwise allowed, whether in

number, size, or placement, may be considered through the building permit application process. In addition to all other customary building permit reviews for temporary signs, any sign sought to be approved pursuant to this Section shall be approved by the Community Development Director. Under certain conditions, the Community Development Director may allow the following:

- (1) signs placed in the public right-of-way if no opportunity exists to display a sign on the premises.
- (2) signs on public property, but not affixed to light poles, utility poles, traffic control devices, or informational signs.
- (3) off-premises signs, in reasonable proximity to the business being advertised.

f. *Sign Size and Placement.*

- (1) Sign size shall not exceed 32 square feet.
- (2) Signs cannot block visibility for vehicles, bicycles or pedestrians or of other business signage.
- (3) Signs shall not obstruct more than 50 percent of a window
- (4) Signs shall not interfere with construction activity

g. *Right-of-Way Placement.* Signs may be placed on a public sidewalk in the DMU District only:

- (1) Pursuant to the issuance of a City license,
- (2) Subject to all requirements for licensing, insurance and indemnification of the City contained in Title 3 Chapter 21 of the City Code.

h. *Display.* Signs not permanently affixed to a building or securely anchored in the ground shall be removed:

- (1) When the business is not open for customers.
- (2) When the National Weather Service issues a high wind warning, a tornado or severe thunderstorm watch or warning.
- (3) From public sidewalks during an accumulating snowfall event.

i. *Construction and Maintenance.* Signs shall be:

- (1) Constructed of exterior grade, rigid, weather resistant and durable materials,
 - (2) Of sufficient weight and durability to insure the sign remains in place during normal weather conditions, and
 - (3) Maintained in a professional manner free of chipping paint, cracks, gouges, loss of letters, and similar defects.
- j. *Elements Prohibited on Signs Pursuant to This Section.* The following shall be prohibited:
- (1) Any form of internal or external illumination, including flashing, blinking or rotating lights;
 - (2) Animation;
 - (3) Reflective materials;
 - (4) Attachments, including, but not limited to, sandbags or other items to hold a sign in place, balloons, ribbons, flags, speakers, other copy or graphics, etc.
- k. *Clearance for Pedestrians.* A clear pedestrian access path shall be maintained as follows:
- (1) Public Sidewalks. A minimum of 4 feet.
 - (2) Private Walkways. A minimum of 3 feet.
5. *Grand Opening and Re-Opening Signs.* Grand opening and re-opening signs may be allowed as follows:
- a. Building permits shall be required for all signs displayed pursuant to this section; all or several signs can be proposed in a single building permit application.
 - b. Signs may be displayed:
 - (1) for the first opening of a business at a particular location, no more than 2 business days before the opening (See 4.407.C.1 for “Opening Soon” sign) or
 - (2) for the first re-opening after completion of an addition or renovation to the building in which the business is located, when such improvement has been issued a building permit by the City and has passed all inspections for completion for such improvement.

- c. Signs may be displayed for a period not to exceed thirty (30) days. This thirty (30) day period shall begin with the earliest installation date established with issuance of the first grand opening or re-opening sign building permit. Future building permits issued for grand opening or re-opening signs for the same business shall allow sign display only during the same thirty (30) day period established by issuance of the first grand opening or re-opening sign building permit.
- d. Signs may be displayed only during the first three (3) months of the business' opening or re-opening. Only one (1) thirty-day period for sign display is permitted in this three (3) month period.
- e. Allowed signs include, but are not necessarily limited to, banners, flags, balloons, streamers, and other means to advertise the opening of the operation, subject to the approval of the Community Development Director and limitations imposed for the protection of the public health, safety and welfare. Signs that flash, blink, or are animated, or contain any moveable parts, whether moved by mechanical means or by a person, or designed to move by forced air, are prohibited.
- f. Signs may be displayed on the property occupied by the business only, or on property that is part of an approved Planned Development that includes the subject business when written consent from the owner of the other property is accepted as part of the approved building permit(s).
- g. Signs shall be setback at least 10 feet from the property line and from vehicle/pedestrian access.

D. **Window Signs.** Except as permitted elsewhere in this Code, window signs shall comply with the following:

- 1. **Area.** Signs shall not exceed 25 percent of the total window area. Window signs are not part of permitted wall sign area. Illuminated window signs shall not exceed 6 square feet per sign.
- 2. **Location.** Individual businesses may display signs in a first floor window area or within 6 feet behind a window.

E. **Awning and Canopy Signs.** Signs on awnings or canopies are permitted, subject to issuance of a building permit and the following standards:

- 1. Awning and Canopy sign area shall count toward permitted wall sign area for the business.
- 2. Signs shall not exceed 80 percent of the width and height of the awning or canopy. Letters on a valance shall not exceed 80 percent of the width and height of the valance.
- 3. The underside of a translucent canopy or awning shall not be illuminated.

- F. **Community Signs.** In addition to other permitted signs, Community Signs are permitted in the PFI and DMU districts, subject to the following regulations:
1. *Number.* One Community Sign is permitted for each zoning lot.
 2. *Height.* Community Signs shall not exceed a maximum height of 8 feet.
 3. *Area.* Community signs shall not exceed an overall maximum area of 60 square feet.
 4. *Changeable Message Area.* Where permitted elsewhere by this Code, up to one-half (1/2) of the sign face of a community sign may be a *Changeable Message Sign* subject to Design Review approval.
 5. *Setback.* Community Signs shall be set back a minimum of 10 feet from the right-of-way or back of curb of a private street.
- G. **Roof Signs.** In addition to other permitted signs, Roof Signs are permitted in the DMU District, subject to the following regulations:
1. *Number.* One Roof Sign is permitted for each building.
 2. *Location.* A Roof Sign shall be located only on a portion of the roof that is in front of a building wall that is at least 1.5 times the height and width of the sign.
 3. *Height.* The bottom of a Roof Sign shall not be more than 2 feet above the roof surface where it is installed.
 4. *Area.* A Roof Sign shall not exceed a maximum area of 32 square feet.
- H. **Chimney Signs.** In addition to other permitted signs, Chimney Signs are permitted in the DMU District, subject to the following regulations:
1. *Number.* Two Chimney Signs are permitted on each chimney that is a minimum of 50 feet in height.
 2. *Location.* The top of a Chimney Sign shall be no higher than two-thirds of the height of the chimney.
 3. *Area.* Chimney Signs shall not exceed an overall maximum area of 60 square feet.
 4. *Placement.* Chimney Signs shall not extend around the entire circumference of the chimney surface.
 5. *Material.* Chimney Signs shall be painted directly on the chimney surface.
 6. *Illumination.* Chimney Signs may be externally illuminated from the base of the chimney or a building element, provided that the light source is fully shielded.

- I. ***Pole Signs.*** In addition to other permitted signs, Pole Signs are permitted in the DMU District in lieu of a monument sign, subject to the following regulations:
 1. *Uses.* Pole Signs shall only be allowed for properties containing a Fueling Facility.
 2. *Number.* One Pole Sign is permitted on a property.
 3. *Location.* No portion of a Pole Sign shall be closer than 5 feet to any property line, or 20 feet from any structure.
 4. *Height.* The maximum height of a Pole Sign shall be 20 feet.
 5. *Clearance.* Pole Signs shall maintain an 8 foot vertical clearance from a public or private sidewalk, walkway or path.
 6. *Overhang.* No portion of a Pole Sign shall overhang a driveway, parking area or other vehicular access way.
 7. *Area.* Pole Signs shall not exceed an overall maximum area of 50 square feet.
 8. *Changeable Message Signs.* No more than one-half (1/2) of the sign area may be a Changeable Message Sign subject to Design Review approval. Use of Electronic Changeable Message Signs shall be limited to the price of fuel.

- J. ***Portable Signs.*** In addition to other permitted signs, Portable Signs are permitted in the DMU, MU, NC, CC, and GC districts, subject to the following regulations:
 1. *Permit Required.* Businesses displaying a portable sign shall first obtain a building permit. The sign shall display a current City decal issued with the building permit.
 2. *Size.* Portable Signs shall be no greater than 6 square feet in area.
 3. *Height.* Portable Signs shall not exceed 4 feet in height.
 4. *Number.* No more than one sign shall be permitted per business customer entrance. One additional portable sign for valet parking service is allowed to be displayed while a valet is on duty.
 5. *Display.* Signs shall be removed:
 - a. When the business is not open for customers.
 - b. When the National Weather Service issues a high wind warning, a tornado or severe thunderstorm watch or warning.
 - c. From public sidewalks during an accumulating snowfall event.
 6. *Location.* Signs shall be located:

- a. At grade level.
 - b. In front of the business property
 - c. No more than 15 feet from the customer entrance to the building for the business being advertised, unless a pedestrian plaza is adjacent to a customer entrance, in which case the sign may be located no more than 50 feet from that entrance.
 - d. A minimum of 2 feet from back of curb adjacent to parking spaces.
7. *Prohibited Locations.* Signs shall not be located:
- a. In landscaped areas, other than turf grass.
 - b. In parking aisles or stalls.
 - c. On or anchored to fences, planters, other signs, vehicles, utility facilities, or any structure.
 - d. In streets or alleys.
8. *Right-of-Way Placement.* Signs may be placed on a public sidewalk in the DMU district only:
- a. Pursuant to the issuance of an annual City license,
 - b. Within 15 feet of a customer entrance if no location on private property can meet the standards of this code,
 - c. Subject to all requirements for licensing, insurance and indemnification of the City contained in Title 3 Chapter 21 of the City Code.
9. *Construction and Maintenance.* Signs shall be:
- a. Constructed of exterior grade, rigid, weather resistant and durable materials,
 - b. Of sufficient weight and durability to insure the sign remains in place during normal weather conditions, and
 - c. Maintained in a professional manner free of chipping paint, cracks, gouges, loss of letters, and similar defects.
10. *Elements Prohibited on Portable Signs.* The following shall be prohibited on Portable Signs:
- a. Any form of internal or external illumination, including flashing, blinking or rotating lights;
 - b. Animation;

- c. Reflective materials;
 - d. Attachments, including, but not limited to, sandbags or other items to hold a sign in place, balloons, ribbons, flags, speakers, other copy or graphics, etc.
11. *Clearance for Pedestrians.* A clear pedestrian access path shall be maintained as follows:
- a. Public Sidewalks. A minimum of 4 feet.
 - b. Private Walkways. A minimum of 3 feet.

4.408 Office/Employment Zoning Districts

- A. *Applicability.* The following regulations shall apply to the following zoning districts: O, SB, LI, and GI.
- B. *Approval.* Signs shall be approved as part of a development project through Design Review or separately by Administrative Design Review.
- C. *Permanent Signs.* Signs shall comply with the approved final Design Review or Administrative Design Review subject to the following regulations:
 - 1. *Wall Signs.*
 - a. Applicability. Wall Signs are permitted on any exterior wall of the tenant or user space.
 - b. Total Business Sign Area. Each business shall be permitted a minimum Wall Sign area of 32 square feet. The maximum Wall Sign area permitted for a business shall be the greater of:
 - (1) The sign area calculated pursuant to Section 4.408.C.1c: Sign Area Allowances per Building Elevation for the longest building elevation of the tenant or user space facing the street; or
 - (2) The sign area calculated pursuant to Section 4.408.C.1c: Sign Area Allowances per Building Elevation for the length of the building elevation of the tenant or user space in which the principal entrance to the business is located.
 - c. Sign Area Allowances per Building Elevation. Wall Signs are permitted on any exterior wall of the tenant or user space at a rate of 1 square foot of sign area for each 1 lineal foot of the building elevation adjacent to the tenant space.
 - d. Multi-Story Buildings. Wall Signs on a multi-story building shall be limited to the first floor.

- e. Dimensions. The length of a Wall Sign shall not exceed 80 percent of the horizontal length of the exterior building elevation of a tenant space. The height of a Wall Sign shall not exceed 80 percent of the vertical dimension of the sign band or wall space on which the sign is placed.
- f. Placement and Scale. Wall signs shall be placed on an area that is free of architectural details. Wall Signs shall not be located closer to the top of a parapet wall than one-half the vertical dimension of the largest letter or character. The Plan Commission may approve a sign that is closer to the top of the parapet wall if it finds that the sign placement does not visually crowd the top of the wall.
- g. Wall Signs Abutting Residential Uses. Wall Signs on building elevations that face properties designated for residential use in the Comprehensive Plan shall:
 - (1) Not be illuminated;
 - (2) Not exceed 16 square feet in area; and
 - (3) Be installed no higher than 14 feet above grade.

2. *Freestanding Signs*

- a. Monument Signs
 - (1) Number. One Monument Sign is permitted for any lot or parcel with a minimum of 100 feet of street frontage. Parcels with 600 feet of street frontage are permitted 2 Monument Signs. One additional Monument Sign is permitted for each additional 300 feet of street frontage.
 - (2) Height. Signs shall be no greater than 6 feet in height.
 - (3) Area. Signs shall be no greater than 60 square feet in area.
 - (4) Setback. Monument signs shall be set back a minimum of 10 feet from the right-of-way and 5 feet from any curb.
 - (5) Changeable Message Signs. One-half (1/2) of the sign face of 1 monument sign in the General Industrial District may be a Changeable Message Sign, subject to Design Review approval. Only 1 changeable message sign is allowed per Zoning Lot.
- b. Directory Signs
 - (1) Number. One sign shall be permitted for each 5 tenants or uses.

- (2) **Size.** Signs shall be no greater than 24 square feet in area and 6 feet in height.
 - (3) **Setback.** Signs shall be set back a minimum of 75 feet from any perimeter property line, except where such property line abuts other commercial or employment development and there is a cross-access between the commercial or employment properties.
 - (4) **Location.** Directory Signs shall only be installed in landscape islands or pedestrian areas.
 - c. **Directional Signs.** Directional Signs are not counted as part of the total sign area for a use and shall comply with the following regulations:
 - (1) **Applicability.** Directional Signs are permitted to assist in traffic movement on a property.
 - (2) Directional Signs shall include an arrow and may include copy to read "Enter", "Exit" or "Drive-Through" or similar language and a single business logo.
 - (3) **Size.** Signs shall be no greater than 3 square feet in area and 3 feet in height.
 - (4) **Setback.** Signs shall be set back a minimum of 25 feet from the right-of-way.
 - (5) **Prohibited Locations.** Directional Signs shall not be located in a required perimeter landscape area.
 3. **Signs on Accessory Entry Monuments.** Signs for center or project identification are permitted on accessory entry monuments for multiple-tenant projects exceeding 20 net acres, subject to Design Review approval.
 - a. **Area.** Signs shall not occupy more than 50 percent of the area of the structure.
 - b. **Spacing.** Signs shall maintain a minimum spacing of 100 feet from any other freestanding sign.
- D. **Temporary Signs.** Temporary Signs are permitted subject to the following regulations:
1. **Initial Display of Banners and Advertising Flags.** Banners and advertising Flags are permitted once during the first year of operation of a use for a period not to exceed 90 consecutive calendar days and commencing not earlier than 30 days prior to the first day of operation of the use. Such Banners and Flags shall be located on the exterior building wall of the

tenant space to which they are appurtenant and shall not exceed a total area of:

- a. 32 square feet for occupancies up to 25,000 square feet; or
- b. 64 square feet for occupancies greater than 25,000 square feet.

2. **Other Display of Banners and Advertising Flags.** Banners and advertising Flags are permitted for a period not to exceed 30 consecutive days per calendar year. Such Banners and Flags shall be located on the exterior building wall of the space to which they are appurtenant, and shall not exceed a total area of:

- a. 32 square feet for occupancies up to 25,000 square feet; or
- b. 64 square feet for occupancies greater than 25,000 square feet.

E. **Window Signs.** Except as permitted elsewhere in this Code, window signs shall comply with the following:

1. **Area.** Signs shall not exceed 25 percent of the total window area. Window signs are not part of permitted wall sign area. Illuminated window signs shall not exceed 6 square feet per sign.
2. **Location.** Individual businesses may display signs in a first floor window area or within 6 feet behind a window.

F. **Awning and Canopy Signs.** Signs installed on canopies shall comply with the following:

1. **Area.**
 - (i) **Freestanding Canopy.** Signs shall not exceed 25 percent of the canopy edge length; signs shall not contribute to the total wall signage area allowed.
 - (ii) **Attached Canopy.** Signs shall not exceed 80 percent of the width and height of the awning or canopy. Letters on a valance shall not exceed 80 percent of the width and height of the valance.
2. **Height.** Signs shall not extend above or below the vertical edge of the canopy.
3. **Location** Signs may be located on canopy edges that face public right-of-ways or private streets.
4. **Illumination.** The underside of a translucent canopy or the edge of a canopy shall not be illuminated, except that an allowed sign may be illuminated where the canopy edge does not face a property designated for residential use in the Comprehensive Plan.

4.409 Parks and Open Space Zoning District

- A. **Applicability.** These regulations shall apply to uses located in the POS zoning district.
- B. **Approval.** Signs shall be approved as part of a development project through Design Review or separately by Administrative Design Review.
- C. **Permanent Signs**
 - 1. **Wall Signs**
 - a. **Applicability.** Wall Signs are permitted on any exterior wall of a structure.
 - b. **Total Sign Area.** Each building shall be permitted a single Wall Sign of 32 square feet.
 - 2. **Monument Signs**
 - a. **Number.** One monument sign is permitted on each street frontage. One additional monument sign is permitted for each street frontage over 600 feet.
 - b. **Size.** Signs shall not exceed 32 square feet in area and 6 feet in height.
 - c. **Setback.** Signs shall be set back a minimum of 10 feet from the right-of-way.
 - 3. **Changeable Message Panels.** One-half of a monument sign face may be a changeable message sign, subject to Design Review approval.
 - 4. **Temporary Signs.** Temporary Signs are permitted, subject to the following regulations and issuance of a sign permit:
 - a. **Periodic Display of Banners and Advertising Flags.** Banners and advertising flags are permitted for special events not to exceed 30 consecutive days.
 - b. **Size.** Temporary signs shall not exceed 32 square feet.

4.410 Removal of Signs on City Property or Rights of Way

The Code Compliance Officer, Building Commissioner, Building Inspector or any Police Officer is authorized to remove any Temporary Sign installed without permission on City property or in the right of way. In addition to the above City employees, City utility employees are authorized to remove any sign installed without permission on City utility facilities or property.

4.411 Removal of Hazardous Signs

The Building Commissioner is authorized to remove or require the immediate removal or repair without written notice of any unsafe sign that creates an immediate hazard to persons or property.

Chapter 6: Use Definitions

Accessory Use (Incidental Use). The use of a building or land which is subordinate to the principal use of the building or land on the same lot or parcel.

Adult Arcade. Any place to which the public is permitted or invited, wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting “specified sexual activities” or “specified anatomical areas.”

Adult Bookstore, Adult Novelty Store, or Adult Video Store. A commercial establishment which has as a substantial or significant portion of its stock in trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

- A. Books, magazines, periodicals, or photographs, films, motion pictures, videocassettes, compact or laser discs, slides, software or other visual representations, which are characterized by their emphasis upon the exhibition or display of “specified sexual activities” or “specified anatomical areas;”
- B. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- A. Persons who appear seminude; or
- B. Live Performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities;” or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas.”

Adult Day Care, Residential. Day care provided in an occupied residential structure for more than 5 adults.

Adult Motion Picture Theater. Any commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, compact discs or similar photographic reproductions are regularly shown which are characterized by the exposure of specified sexual activities or specified anatomical areas.

Adult Show or Adult Theater. Any theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear nude or seminude, or live performances which are characterized by the exposure of specified anatomical areas, or by specified sexual activities.

Agritainment. Agriculturally-based recreation and entertainment events and activities in conjunction with on-going agricultural uses on a property. Activities may include corn mazes, hayrides, petting zoos, Farm Stands, and Farmer's Markets.

Amateur Radio Facilities. Equipment and structures used for airway communication purposes by persons holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.

Ambulance Services. A facility for the provision of emergency and non-emergency medical transportation, including the parking and dispatching of ambulances, but excluding the maintenance of vehicles.

Amplified Artistic Performance: A Use where amplified music, singing, spoken word or other similar audio entertainment or performance is provided.

Animal Raising, Non-Commercial. The keeping, grazing or feeding of fowl or animals not for profit.

Animal Services. Facilities for care and treatment of animals, including incidental sales of pet supplies.

Animal Grooming. Any place or establishment where animals are bathed, clipped, or combed and a fee is charged for such services.

Animal Shelter. A facility used to house or contain stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a public body, humane society, animal welfare society, society of the prevention for cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Animal Training. An establishment where animals are brought and trained for the purposes of obedience, assistance, tricks or tasks. Animal Training does not include overnight boarding.

Kennel. Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding, or care of dogs, cats, pets, fowl or other domestic animals for a fee, but not including boarding, breeding or care of animals used for agricultural purposes. Ancillary services such as animal grooming and the sale of animal food and supplies are permitted.

Large Animal Hospitals. Animal services for large domestic and farm animals, including grooming and boarding of animals receiving medical treatment.

Small Animal Clinics. Veterinary services for small animals, including grooming and interior kennels for boarding of animals receiving medical treatment.

Auction. *(See Swap Meet)*

Automated Teller Machine (ATM). An automated device that provides banking services.

Automated Teller Machine (ATM), Remote. An outdoor, freestanding automated device that provides banking services at a location physically separated from the controlling financial institution, either on or off of the property containing the controlling financial institution.

Backhaul Network. The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Banks and Other Financial Service Institutions. Establishments that provide retail banking, credit, and mortgage services to individuals and businesses. This classification includes banks and savings and loan establishments, credit unions, and check cashing establishments.

Banquet Facility. An establishment rented to others for social gatherings, including outdoor assembly.

Bed and Breakfast Homes. Owner-occupied dwellings providing lodging and meals to paying guests for a limited duration. Kitchen facilities are not provided for use by guests.

Brewery. A facility that produces, packages and distributes malt beverages. A brewery may include a tasting room where beverages may be consumed on site or in sealed containers for consumption off site.

Brewpub. A restaurant that includes a small brewery where beverages are sold for consumption on site or in sealed containers for consumption off site.

Building Maintenance Services. Establishments providing carpet cleaning, janitorial services, pool services, and similar uses.

Building Material and Home Improvement Sales and Service, Retail. Sale or rental of building or landscaping materials, supplies, hardware or construction equipment to the public.

Building Material and Home Improvement Sales and Service, Wholesale. Sale of building or landscaping materials, supplies, hardware or construction equipment to other firms for resale or distribution. Incidental retail sales may be conducted.

Business Services. Establishments providing document delivery, mail services and boxes, package services, blueprinting, copying, desktop publishing and photographic services.

Call Center. A large-scale office providing incoming and outgoing telephone and computer services for one or more corporations. Call centers do not provide on-site

customer services and are characterized by high employee density, open offices and 24 hour operations.

Cannabis Cultivation Center. An establishment licensed by the State of Illinois Department of Agriculture to cultivate cannabis for sale and/or distribution to licensed and/or lawful cannabis dispensaries.

Cannabis Dispensary, Medical. An establishment licensed by the State of Illinois under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act that acquires medical cannabis from a licensed Cultivation Center for the purpose of dispensing cannabis, cannabis derived products, paraphernalia or related supplies and education material. A Medical Cannabis Dispensary shall not dispense cannabis for recreational use.

Cannabis Dispensary, Recreational. An establishment, other than a medical cannabis dispensary, that dispenses cannabis, cannabis derived products, paraphernalia or related supplies as permitted by the laws of the State of Illinois.

Carnival. (See Batavia City Code Title 3 : Business and License Regulations)

Circus. (See Batavia City Code Title 3: Business and License Regulations)

Cemetery. Burial grounds for the interment of the human deceased.

Cemetery, Pet. Burial grounds for the interment of domestic animals.

Child Care Facility. Any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child Care Facility includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

Child Care Institution. A child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term Child Care Institution includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

- A. Any State-operated institution for child care established by legislative action;
- B. Any juvenile detention or shelter care home established and operated by any county or child protection district;
- C. Any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act [210 ILCS 45];
- D. Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or elementary and high schools, and which operates on a regular academic school year basis;

- E. Any facility licensed as a "group home" as defined in the Child Care Act of 1969 (Section 2.06 of the Child Care Act of 1969)

Child Day Care, Home Occupation. A permanent residential unit where an occupant provides day care and supervision for more than 3, but fewer than 13 children, including all children 12 or under residing within the unit, whether or not for compensation, for less than 24 consecutive hours.

Clubs and Lodges. Meeting or social facilities primarily for use by members or guests of an organization. Examples include union halls, fraternal and service organizations, and social clubs.

Colleges, Public or Private. Institutions of higher education (post-secondary) providing curricula of a general, religious, or professional nature, typically granting recognized degrees, including conference centers and academic retreats associated with such institutions. This classification includes business and computer schools, management training, technical and trade schools, but excludes Instructional Services, Specialized.

Community Garden. A public or private effort for the cultivation of land by more than one person or entity.

Congregate Living Facility. A long-term residential facility for persons of a specific minimum age, handicapped or other special needs persons. Congregate living facilities include common dining, social, and recreational amenities. Congregate living facilities may include independent living units and Nursing Homes but only as part of a larger facility. Limited commercial services may be provided exclusively for residents.

Contractor's Yard. A facility for the outdoor storage of materials, equipment, and commercial vehicles used in construction, building maintenance, landscaping and similar activities, including incidental office space.

Conference Center. A facility used for assemblies or meetings. This classification excludes Clubs and Lodges, or other meeting facilities of private or non-profit groups that are primarily used by group members.

Crematorium. A facility for the cremation of human or animal remains.

Crop and Animal Raising, Commercial. The growing of tree, vine, field, forage, and other plant crops, and the keeping, grazing, or feeding of fowl or animals for animal products, animal increase, and value increase for profit.

Crop Raising, Non-Commercial. The growing of tree, vine, field, forage, and other plant crops, not for profit.

Cultural Institutions. Museums, publicly owned or not-for-profit historic sites, art galleries, performing arts facilities, libraries, and similar uses.

Currency Exchange. An establishment that exchanges common currencies, sells money orders or cashier checks, or provides check cashing services, for a fee.

Day Care Home. See *Child Day Care, Home Occupation.*

Driving Range. An establishment, which allows customers to practice golf drives and golf swings from a central golf tee location outdoors.

Dry Cleaning and Laundry Outlet. A retail facility where clothing and other fabrics are cleaned or laundered, by employees. Tailoring and similar services may be offered.

Dry Cleaning and Laundry Central Plant. A facility for cleaning or laundering fabrics, textiles, clothing, uniforms or similar items which does not include customer drop off.

Eating and Drinking Establishments. Businesses that primarily engage in the sale of food or beverages for consumption on or off the premises. Dancing, live music, or other similar live entertainment may be offered.

Bars/Taverns/Night Clubs/Lounges. Eating and Drinking Establishments that derive 50 percent or more of their gross revenues from the sale of alcoholic beverages for consumption on the premises. Serving of food is only incidental to the sale of alcoholic beverages. This classification excludes Sexually Oriented Businesses.

Restaurants, Full Service. Eating and Drinking Establishments providing food and beverage service to patrons who order and are served while seated at tables, and pay after eating. Gross revenues from the sale of alcoholic beverages are less than 50 percent of total gross sales. Takeout service may be provided.

Restaurants, Limited Service. Eating and Drinking Establishments providing pre-packaged food or food prepared on-site, sold to patrons who pay before eating. Food and beverages may be consumed on the premises, taken out, or delivered. Limited or no table service is provided. This classification includes cafeterias, cafes, fast-food outlets, pizzerias, and snack bars.

Entertainment and Recreation, Indoor. Public or private fitness centers, theaters, bowling alleys, skating rinks, billiard parlors and pool halls, amusement arcades, gymnasiums, sports courts, swimming pools, and similar uses. Incidental sales of food and beverages are permitted. The following uses are not entertainment and recreation uses: [Firing Range, Indoor or Homeowners Association Facilities](#).

Large-Scale. Indoor entertainment and recreation uses that are greater than 10,000 square feet of building area.

Small-Scale. Indoor entertainment and recreation uses 10,000 square feet or less of building area.

Entertainment and Recreation, Outdoor. Public or private parks, playgrounds, open spaces, playing fields, sports courts, driving ranges not in conjunction with a Golf

Course, swimming pools, amphitheaters, miniature golf courses, go-kart tracks, zoos, and similar uses. Incidental sales of food and beverages are permitted.

Farm Stand. A structure used for the sale of produce or agricultural product produced on the property.

Farmers' Market. The sale of agricultural products, arts and crafts, and prepared food by individual vendors at an open-air market, excluding games and rides.

Firing Range, Indoor. A facility, located in a principal structure, where members of the general public, or members of a club or organization, discharge firearms for target practice or competition of skills.

Firing Range, Outdoor. A facility, on a property having a principal structure, where members of the general public or members of a club or organization, discharge firearms for target practice or completion of skills in an outdoor location specifically designed for firing at targets.

Food Preparation. A facility that prepares food and beverages for off-site consumption.

Large-Scale. A food preparation facility that produces packaged foods and beverages for sale and distribution primarily to other businesses, including incidental on-site retail sales.

Small-Scale. A food preparation facility that produces food and beverages primarily for sale to the general public. This classification includes catering kitchens and the production of specialty foods.

Fortune-Telling Business: An establishment that provides advice, prediction or interpretation of events through the use of astrology, card, palm or tea reading, crystal gazing, divination, psychometry, phrenology or other similar methods to foretell the future in exchange for financial consideration.

Funeral and Undertaking Services. Establishments primarily engaged in the care and preparation of the human deceased and the conduct of funeral services. Typical uses include funeral parlors and chapels, or mortuaries, but excluding Cemeteries. Cremation services may be included as an ancillary use.

Garage Sale. A sale of personal property, open to the public, conducted on an occupied residential property. A garage sale includes all sales titled garage, lawn, yard, attic, patio, or rummage sale.

Garden Supply Stores and Plant Nurseries. Establishments engaged in the retail sale of garden supplies and plants grown on the premises or elsewhere. This classification includes the incidental sales, repair and rental of landscape materials and equipment.

Golf Course. Land with at least nine holes for playing golf and which is improved with tees, greens, fairways, and hazards. Clubhouses, maintenance buildings, cart storage facilities, pro shops, restaurants or driving ranges may be incidental uses. The following use is not a golf course: miniature golf course.

Government Offices and Facilities. Offices and facilities used by governmental entities for their governmental or proprietary purposes. This classification excludes airports, Utilities, and Public Safety Facilities.

Group Home. A lawfully established facility in a residential building housing not more than 10 persons with disabilities who receive care, supervision, or counseling from 1 or more staff persons. The group home constitutes a single housekeeping unit and residents typically share responsibilities, meals, and recreation. This use includes assisted living homes, homes for the mentally ill, halfway houses, group care agencies and similar residential living arrangements for persons with disabilities, but shall not include boarding houses, Nursing Homes, or a Shelter Care Facility.

Guest Quarters. A permanent accessory structure used for the temporary housing of family members and non-paying guests, which does not include built-in cooking facilities, and is not equipped for kitchen appliances requiring 220-volt electric service or natural gas.

Haunted House. A combination of displays, acts, exhibits, or other attractions intended to entertain or amuse patrons related to Halloween themes and images.

Health Care Facilities

Hospital. A facility licensed by the State of Illinois that provides diagnosis and treatment of patients and inpatient care by a medical staff. Hospitals may include associated medical facilities, including offices, clinics, laboratories, diagnostic centers, wellness facilities and similar uses.

Medical Offices and Clinics. An outpatient facility providing medical, dental, chiropractic and/or psychiatric services, as well as medical and dental laboratories incidental to the medical office use. This classification includes home health agencies.

Urgent Care Facility. A facility that provides emergency or urgent medical services with no provision for continuing care on an inpatient basis.

Heliport/Helipad. A public or privately-owned facility for takeoff and landing of helicopters.

Home Occupation. A business or profession conducted by the residents of a dwelling unit in a residential district.

Homeowners Association Facilities. Private club houses, dining facilities, swimming pools, parks and open space, sports courts, play fields, lakes, ponds, stormwater management and similar facilities owned by and principally for the use and benefit of association members. Homeowners Association Facilities include facilities owned and operated by apartment complexes for use by tenants.

Hospice. A freestanding licensed facility that provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting.

Hotels and Commercial Lodging. Establishments offering transient lodging including motor lodges, motels, hostels, extended stay hotels, and timeshare facilities. This classification excludes Group Homes, apartments and other facilities intended for long-term occupancy. These uses may provide accessory services, such as conference and meeting rooms, restaurants, bars, and recreation facilities available to guests or to the general public. Short term rental/leasing of Single Family residential, condominiums, townhouses and loft units for less than 30 days is considered a Hotels and Commercial Lodging use.

Incidental Use, See Accessory Use

Instructional Services, Specialized. Provision of instructional services including: arts, crafts, dance or music studios, diet centers, driving schools, martial arts, reducing salons, tutoring and similar uses.

Laboratories, Commercial. Medical, dental, imaging, and similar indoor testing facilities.

Laboratories, Industrial. Facilities for the testing or analysis of environmental, industrial, or similar products or materials.

Laboratories, Research. See *Research and Development*.

Laundry Services. Establishments that provide washing, drying, and dry cleaning facilities for clothing or other fabrics in machines operated by patrons.

Mail Order, Catalog Sales or Internet Sales. An establishment that receives and fills requests for merchandise or services through the mail, phone or Internet Sales. Such a use may include warehousing, shipping and receiving of merchandise intended for sale. This use does not include the sales of motor vehicles.

Maintenance and Repair Services. Establishments providing repair services for personal and household goods, such as household appliances, computers, television, audio or video equipment, office machines, furniture, luggage, and leather goods conducted entirely within an enclosed building. This classification excludes Vehicle Services, both Light and Heavy, and internal combustion engine repair.

Manufacturing and Assembly. Manufacturing and assembly of products primarily for sale to other businesses.

Artisan. Small-scale production of goods by hand manufacturing or assembly, involving the use of hand tools and small-scale equipment. Retail sale of goods produced on the premises may occur.

Light. Manufacturing, processing, assembly, packaging, printing, treatment, fabrication, and storage of finished or semi-finished parts or products. Light manufacturing and assembly uses are conducted within an enclosed building with incidental outdoor storage.

General. Manufacturing, processing, compounding, assembly, packaging, treatment or fabrication of parts or products, mass produced from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. General manufacturing and assembly uses are conducted either fully or partially within an enclosed building with limited off-site impacts. Products may require shipping by large trucks.

Heavy. Manufacturing, processing, compounding, assembly, packaging, treatment or fabrication of finished parts or products, mass produced from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Heavy manufacturing and assembly uses may be conducted entirely outdoors and have moderate to significant off-site impacts, including visual impacts. Uses involving radioactive or highly toxic materials or chemicals, highly combustible or explosive materials, or other materials and substances of a noxious nature in the manufacturing process are included in this classification. This classification includes, but is not limited to, steel fabrication, concrete block manufacturing, asphalt and concrete batch plants and truss plants. Products require shipping by semi-trucks or rail.

Massage Establishment: An establishment where massage for non-medical manipulation, massage, or similar stimulation to the human body is administered, whether by hand or with mechanical or electrical apparatus and with or without supplemental aids such as rubbing alcohol, liniments, antiseptics, oils, powders or creams. This definition excludes Entertainment and Recreation, Indoor uses such as fitness facilities or gymnasiums, medical or chiropractors' offices or other similar establishments where the practice of massage is an incidental service.

Media Studio. Establishments primarily engaged in the creation or editing of audio, video or film media. Typical uses include audio, video or film production and recording studios.

Mining and Quarrying. The extraction of metallic and nonmetallic minerals or other natural resources, including quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining.

Mobile Home Park. Any parcel of land or portion thereof which is used or offered for use as a location for one or more mobile homes.

Model Home(s). One or more uninhabited dwelling units used by a residential builder as models for the sales of residential lots and dwellings. Model home complexes may include a sales office, customer parking, a design and decorating center, and similar activities.

No-Impact Antenna Facility: An antenna facility that is either: a) virtually invisible to the casual observer, such as an antenna behind louvers on a building, or inside a steeple

or similar structure; or b) camouflaged so as to blend in with its surroundings to such an extent that it is no more obtrusive to the casual observer than the structure which it is: 1) placed on, such as a rooftop, lighting standard, or existing tower; or 2) replacing, such as a school athletic field light standard.

Nursing Home. A facility other than a hospital, licensed by the State of Illinois, that provides accommodation, personal assistance, and skilled nursing care to non-ambulatory residents who are dependent upon the services of others.

Offices, General. Professional or administrative offices. This classification excludes retail banking, financial service institutions, and offices incidental to retail, manufacturing and assembly, storage, or other principal uses.

Over-the-Air Reception Device. An antenna designed to:

- A. Receive direct broadcast satellite service, including direct-to-home satellite services, or to receive or transmit fixed wireless signals via satellite and that is one meter (39.37 inches) or less in diameter; or
- B. Receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite and that is one meter (39.37 inches) or less in diameter or diagonal measurement; or
- C. Receive television broadcast signals.

For purposes of this definition, “fixed wireless signals” means any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location, but shall not include among other things, AM radio, FM radio, amateur (“HAM”) radio, citizen’s band (“CB”) radio, and Digital Audio Radio Service (“DARS”) signals.

Parking Facilities. Outdoor lots and enclosed garages offering parking to the public when such use is not accessory to another land use.

Pawn Shops. Establishments engaged in the buying and selling of new or secondhand merchandise and offering loans in exchange for personal property.

Personal Loan Agency. An establishment that provides personal loans to individuals in exchange for a personal check or title to a vehicle as collateral.

Personal Services. An establishment engaged in the provision of services of a personal nature. The accessory retail sales of products related to the service may also occur. This classification includes barbershop, beauty salon, cosmetologist, electrolysis, tanning salon, day spa, and nail salon, but excludes tattoo parlors or body piercing, except for piercing of ears.

Playing Field: A parcel developed to host one or a number of outdoor games or recreation activities, including but not limited to baseball, football, soccer, softball or similar team activity.

Pre-existing Towers and Pre-existing Antennas. Any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date hereof, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Principal Use. The primary or dominant use or activity occurring on a property.

Public Safety Facilities. Facilities for public safety and emergency services, including facilities that provide police and fire protection, public safety offices, forensic laboratories and training facilities.

Recreational Vehicle Park. A developed property providing spaces for short-term rental to occupied recreational vehicles.

Religious Assembly. Facilities for worship and other religious ceremonies with incidental religious education, religious bookstores, rectories and parsonages, offices, social services, day care, and community programs.

Research and Development. Facilities for research and development of products, including but not limited to technology-intensive fields such as chemical, biological, pharmaceutical, electronics and genetic research.

Residential, Permanent. Long-term living accommodations, excluding residential care facilities.

Loft Unit. A residential unit above a nonresidential use.

Single Family, Detached. A dwelling unit located on an individual lot that is not attached to any other dwelling unit.

Multi-Family. A building, group of buildings, or portion of a building that contains 3 or more dwelling units on 1 lot. Multi-family dwellings may include apartment buildings and residential condominiums. Multi-family housing may be in a mixed-use building with ground floor commercial space.

Two Family. A building on 1 lot used and designed as residences for 2 families living independently of each other with individual cooking and sanitary facilities in each dwelling unit.

Townhouse. A single structure consisting of three or more dwelling units having one or more unpierced walls abutting another dwelling, extending from ground to roof, and designed to have all exits open directly to the outside.

Retail Sales, Convenience. A retail establishment of less than 3,000 square feet offering a limited amount of groceries, household items, and automotive supplies. This

classification may include incidental *Fueling Facilities, Limited Service Restaurants* with drive-through and *Automated or Self-Service Car Wash Facilities*.

Retail Sales, Furniture. Establishments selling furniture or a combination of furniture and appliances to the general public.

Retail Sales, General. Establishments engaged in the sale of merchandise, goods, and groceries. This classification includes rental services such as party supplies, clothing, video rental, and event furnishings. This classification excludes Building Material and Home Improvement Sales and Service, Furniture Retail Sales, Convenience Retail Sales, Commercial Vehicle/Equipment Sales and Rental, Motor Vehicle Sales and Leasing, and Pawn Shops.

Salvage Yards or Junkyards. Storage, dismantling and recycling of vehicles, equipment, metals, tires or other used materials for sale as parts or raw material, including but not limited to, the collection, storage, exchange or sale of goods, used building material, used containers or drums, and similar articles or property.

Satellite Dish Antenna, Large. A satellite dish antenna exceeding 1 meter (39.37 inches) in diameter designed or used for receiving communications from a satellite.

Schools, Public or Private. Facilities for educational and/or classroom purposes operated by public or private educational institutions offering a general course of study at primary, middle, or high school levels, including seminaries, study centers, athletic facilities, vocational and trade programs that are incidental to the operation of such schools. Schools, Public or Private does not include Child Care Facilities or Child Care Institutions.

Seasonal Sales. The sale of merchandise related to a seasonal event or recognized state holiday. Examples include Christmas tree and pumpkin sales.

Senior Housing. Permanent residential unit(s) restricted by federal or state law, deed restriction, or similar requirement to occupancy by persons of a specific minimum age.

Sexually Oriented Business. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency or seminude model studio.

Shelter Care Facility. A residential care facility which provides temporary lodging, meals, counseling, and full time supervision to individuals and groups such as pregnant teenagers, victims of domestic violence, neglected children, and runaways for periods of less than 30 consecutive days.

Shelter Care Facility, Homeless. A facility which provides temporary lodging, meals, and sanitary facilities for persons without permanent housing.

Small Wind Energy System. A wind energy conversion system consisting of a wind turbine, mounting apparatus, and associated control or conversion electronics which has a rated capacity of not more than 10 kW and which is intended to primarily reduce on-site consumption of utility power.

Smoking Lounge: A retail establishment that derives more than 80% of its gross revenue from the sale of loose tobacco, plants, ~~or~~ herbs, liquids or chemicals to be vaporized for inhalation, and cigars, cigarettes, pipes, vaporizing devices for inhalation by mouth or nose, and other smoking devices for burning tobacco or vaporizing liquids or chemicals and related smoking accessories and in which the sale of other products is merely incidental. A Smoking Lounge is located in a free standing building and permits the consumption of tobacco products by customers on premises, consistent with the Smoke Free Illinois Act.

Stable, Commercial. Facilities for boarding or renting horses, mules, or ponies. Equestrian lessons may be provided. A Feed Lot is not a commercial stable.

Stable, Non-Commercial. A detached accessory structure for the keeping of horses, mules, and ponies owned by the occupants of the premises and not offered for compensation.

Storage, Business Property. The outdoor storage of materials, goods, vehicles or equipment used in conjunction with a business.

Storage, Personal Property. A facility offering storage of personal property and office records to the general public.

Indoor. A personal property storage facility where all storage occurs in one or more fully enclosed buildings. A facility may include one on-site dwelling unit for a facility manager.

Outdoor. A personal property storage facility where all or part of the storage occurs outdoors, including the storage of recreational vehicles. A facility may include one on-site dwelling unit for a facility manager.

Stormwater Management Facility. Any apparatus or facility that controls or manages the path, storage, or release of stormwater runoff. Such facilities may include retention or detention basins, drainage channels or swales, inlet or outlet structures, or similar facilities.

Swap Meet, Flea Market and Auction, Indoor. Commercial activities held in an enclosed structure where: 1) groups of licensed vendors rent space to display, barter, or sell goods to the public; or 2) one or more sellers bring goods for auctioning to the public. The following uses are not swap meet and auction uses: Farmer's Market, occasional craft fairs and benefit sales held on public property or conducted by a non-profit organization.

Swap Meet, Flea Market and Auction, Outdoor. Commercial activities held in an open area where: 1) groups of licensed vendors (sellers) rent space to display, barter, or sell goods to the public; or 2) one or more licensed sellers bring goods for auctioning to the public. The following uses are not swap meet and auction uses: Farmer's Market, occasional craft fairs and benefit sales held on public property or conducted by a non-profit organization.

Tattoo Parlor / Piercing Studio. An establishment offering: permanent marking of the skin using ink or other substances by means of needles or other instruments, or; the creation of an opening in the body for the purpose of inserting jewelry or other decoration.

Teen Nightclub. A facility with music and dancing primarily for youth unaccompanied by adults, and which charges an admission fee or cover charge.

Use. Any purpose for which a lot, structure or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation occurring on or intended to be occurring on or in a structure or on a tract of land.

Use, Principal. See Principal Use.

Use, Accessory. See Accessory Use.

Use, Incidental. See Accessory Use.

Utilities

Customer Service Center. An establishment associated with a franchised public utility that provides customer account services and other customer support functions. Activities may include initiating or stopping services, payment of bills, pick-up/return of rented or sold equipment or technical assistance. Retail sales may also occur at the location.

Facilities. Buildings, structures or land used by a utility, railroad, or governmental agency for water or wastewater treatment plants, lift and pumping stations, electric substations, telecommunication exchanges, resource recovery facilities or similar uses. This use does not include Utility Service Yards, Wireless Communication Facilities, Over-The-Air Reception Devices, Large Satellite Dishes, well sites, or Amateur Radio Facilities.

Service Yard. Buildings, structures, or land used by a utility, railroad, or governmental agency for the purpose of storing and maintaining vehicles, equipment and materials.

Well Site. Groundwater extraction well locations, including pumps and associated equipment, not located within a building.

Vehicle and Equipment Sales, Leasing and Services

Car Wash. A facility providing self-service, automated or full-service car washing. Vehicle detailing and waxing may be offered.

Commercial Vehicle/Equipment Sales and Rental; New and Used. Sales or rental of trucks, trailers, tractors, construction or agricultural equipment, buses and similar equipment, including incidental maintenance.

Fueling Facility. A facility for the retail sale of vehicle fuel. Incidental uses may include *convenience retail sales* less than 1000 square feet, an Automated or Self-Service Car Wash, Light Vehicle Services and Alternative Fueling Facilities.

Fueling Facility, Alternative. Commercial sale of propane, natural gas, hydrogen, electric, or other alternative fuels to be used in vehicles.

Fueling Facility, Fleet. Fuel dispensing limited to fleet vehicles such as delivery trucks, school buses, and municipal vehicles where no retail sales are conducted.

Motor Vehicle Sales and Leasing, New and Used. Sale or leasing of automobiles, motorcycles, light trucks, motor homes, recreational vehicles, boats, and similar equipment, including incidental maintenance.

Non-Commercial Vehicle Rental. Rental of automobiles, light trucks, motorcycles, watercraft, and similar equipment, specifically excluding sales and maintenance. This classification does not include the rental of motor homes and recreational vehicles.

Tent Sale, Vehicle. The temporary outdoor sale of vehicles at other than a normal business location, by one or more licensed dealers.

Vehicle Services, Heavy. Major repair of automobiles, trucks, motor homes, recreational vehicles, or boats. This classification includes full or partial drive train removal, repair and replacement, body and paint shops, radiator shops, vehicle emissions testing, transmission shops and similar uses. This classification excludes vehicle dismantling or Salvage.

Vehicle and Equipment Services, Light. Minor vehicle and equipment services limited to repair, replacement and installation of components, including batteries, tires, brakes, tune-ups, air conditioning, automobile glass replacement and tinting, upholstery, audio and video equipment, mufflers, fluid change and lubrication services. Equipment services include service and repair of garden equipment. Light vehicle services exclude any operation specified under Vehicle Services, Heavy.

Warehousing. Commercial storage and distribution facilities.

Freight/Truck Terminal and Warehouse. A facility for the receipt, transfer, short term storage, and distribution of goods transported by truck.

Information. A facility that provides space or equipment for storage, management or distribution of information.

Petroleum and Gas Storage. Tank farms and outdoor facilities for the storage of petroleum products and natural gas.

Waste Management. Facilities for the collection, receipt, storage, transfer, and disposal of waste, excluding sewage.

Hazardous Waste Collection and Transfer Facility. Facilities where hazardous or medical waste material is collected, received, temporarily stored, or processed for transportation to another location for recycling, re-use, incineration or final disposal.

Hazardous Waste Disposal Facility. Facilities where hazardous or medical waste material is incinerated or otherwise put to other final disposition.

Non-Hazardous Waste Collection and Transfer Facility. Facilities where non-hazardous waste material is collected, received, temporarily stored or processed for transportation to another location for incineration or final disposal.

Non-Hazardous Waste Disposal Facility. Facilities where hazardous or medical waste material is incinerated or otherwise put to other final disposition.

Non-Hazardous Material Recycling Facility. An establishment where recyclables are collected, received, temporarily stored or processed in a building, for transportation to another location for recycling.

Recycling Collection Bin. A container located outside of a building that is used to store items intended for reuse. Recycling Collection Bins are not containers used to temporarily store items intended for recycling that typically are emptied by contracted waste haulers.

Wireless Communication Facilities. Antennas, support structures, storage structures and related equipment for the transmission or reception of personal wireless services, radio or microwave signals as authorized by the Federal Communication Commission. Personal wireless services include commercial mobile services, common carrier wireless exchange access services, and unlicensed wireless services, but not direct-to-home satellite services.