

**ORDINANCE NO. 2796-10**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO ADOPT NEW ZONING REGULATIONS CHANGING THE PERMITTED, CONDITIONAL AND PROHIBITED USES WITHIN THE ZONING DISTRICTS OF THE CITY, ADOPTING NEW DEVELOPMENT STANDARDS, DENSITIES AND INTENSITIES OF DEVELOPMENT, ADOPTING CHANGES NECESSARY TO IMPLEMENT THE CITY OF WINTER PARK, COMPREHENSIVE PLAN, GOALS, OBJECTIVES AND POLICIES DOCUMENT, DATED FEBRUARY 23, 2009, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Legislature has adopted Chapter 163, Florida Statutes which requires all local communities to adopt amendments to their Land Development Codes to implement the growth and development policies of Comprehensive Plans adopted pursuant to Chapter 163, Florida Statutes and Florida Administrative Rules in order to provide appropriate policy guidance for growth and development: and

**WHEREAS**, the Winter Park City Commission adopted a new Comprehensive Plan on February 23, 2009 via Ordinance 2762-09; and

**WHEREAS**, the Winter Park City Commission also adopted an Evaluation and Appraisal Report (EAR) on December 8, 2008 by Resolution 2018-08 which required the adoption of an entirely new Comprehensive Plan and amendments to the Land Development Code necessary for implementation; and

**WHEREAS**, the Winter Park Planning and Zoning Commission, acting as the designated Local Planning Agency, has reviewed and recommended adoption of proposed amendments to the Zoning Regulations portion of the Land Development Code having held an advertised public hearing on August 18, 2009, and rendered its recommendations to the City Commission; and

**WHEREAS**, the Winter Park City Commission has reviewed the proposed amendments to the Zoning Regulations portion of the Land Development Code and held advertised public hearings on January 11, 2010 and on January 25, 2010 and advertised notice of such public hearings via quarter page advertisements in the Orlando Sentinel pursuant the requirements of Chapter 166, Florida Statutes and placed the proposed amendments on the City's website on August 7<sup>th</sup>, five months prior to adoption.

**NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:**

**SECTION 1.** That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by repealing and adopting "Zoning" Sections as follows and to read as attached as Exhibit "A" to this ordinance.

Sec. 58-61. Short title; establishment of districts; provision for official zoning map.

Sec. 58-64. Nonconforming lots, nonconforming uses and nonconforming structures.

Sec. 58-68. Medium density multiple family residential (R-3) district.

Sec. 58-69. Multi-family (high density R-4) district.

Sec. 58-82. General provisions for residential zoning districts. (new section)

Sec. 58-72. Office (O-1) district. (renumbered from sec.58-71)

Sec. 58-73. Office (O-2) district. (renumbered from sec.58-72)

Sec. 58-74. Commercial (C-1) district. (renumbered from sec.58-73)

Sec. 58-75. Commercial (C-2) district. (renumbered from sec.58-74)

Sec. 58-76. Commercial (C-3) district. (renumbered from sec.58-74)

Sec. 58-77. Commercial (C-3A) district. (renumbered from sec.58-76)

Sec. 58-78. Limited industrial and warehouse (I-1) district. (renumbered from sec.58-77)

Sec. 58-79. Public and quasi-public (PQP) district. (renumbered from sec.58-78)

Sec. 58-80. Parking lot (PL) district. (renumbered from sec.58-79)

Sec. 58-81. Parks and recreation (PR) district. (renumbered from sec.58-80)

Sec. 58-82. Planned development (PD-1) district. (new section)

Sec. 58-83. Planned development (PD-2) district. (new section)

Sec. 58-84. General provisions for non-residential districts. (renumbered sec.58-82)

Sec. 58-85. Maximum height map regulations (new section)

Sec. 58-86. Off-street parking and loading regulations. (renumbered from sec.58-81)

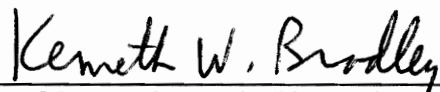
Sec. 58-95. Definitions. (renumbered from sec.59-92)

**SECTION 2.** That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by renumbering the following Sections that do not include any text amendments so as to maintain the sequential numbering order as follows:

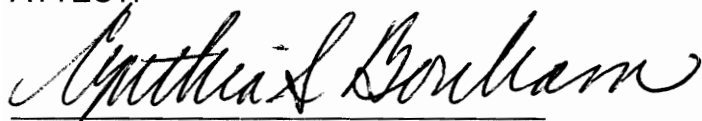
Sec. 58-83 is now Sec. 58-87; Sec 58-84 is now Sec. 58-88; Sec. 58-85 is now Sec. 58-89; Sec. 59-86 is now Sec. 58-90; Sec. 58-87 is now Sec. 58-91; Sec. 58-88 is now Sec. 58-92; Sec. 58-89 is now Sec. 58-93; and Sec. 58-91 is now Sec. 58-94.

**SECTION 3.** This ordinance shall become effective immediately upon its final passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this ~~21st~~ *22nd* day of February, 2010.

  
\_\_\_\_\_  
Mayor Kenneth W. Bradley

ATTEST:

  
\_\_\_\_\_  
City Clerk Cynthia Bonham

## **EXHIBIT “A”**

- Sec. 58-61. Short title; establishment of districts; provision for official zoning map.
- Sec. 58-64. Nonconforming lots, nonconforming uses and nonconforming structures.
- Sec. 58-68. Medium density multiple family residential (R-3) district.
- Sec. 58-69. Multi-family (high density R-4) district.
- Sec. 58-71. General provisions for residential zoning districts. (new section)
- Sec. 58-72. Office (O-1) district. (renumbered from sec.58-71)
- Sec. 58-73. Office (O-2) district. (renumbered from sec.58-72)
- Sec. 58-74. Commercial (C-1) district. (renumbered from sec.58-73)
- Sec. 58-75. Commercial (C-2) district. (renumbered from sec.58-74)
- Sec. 58-76. Commercial (C-3) district. (renumbered from sec.58-75)
- Sec. 58-77. Commercial (C-3A) district. (renumbered from sec.58-76)
- Sec. 58-78. Limited industrial and warehouse (I-1) district. (renumbered from sec.58-77)
- Sec. 58-79. Public and quasi-public (PQP) district. (renumbered from sec.58-78)
- Sec. 58-80. Parking lot (PL) district. (renumbered from sec.58-79)
- Sec. 58-81. Parks and recreation (PR) district. (renumbered from sec.58-80)
- Sec. 58-82. Planned development (PD-1) district. (new section)
- Sec. 58-83. Planned development (PD-2) district. (new section)
- Sec. 58-84. General provisions for non-residential districts. (renumbered sec.58-82)
- Sec. 58-85. Maximum height map regulations (new section)
- Sec. 58-86. Off-street parking and loading regulations. (renumbered from sec.58-81)
- Sec. 58-95. Definitions. (renumbered from sec.59-92)

**Sec. 58-61. Short Title; Establishment of Districts; Provision for Official Zoning Map.**

(a) *Intent and purpose.*

(1) These regulations are intended to promote the orderly development and redevelopment of the City of Winter Park, Florida, in accordance with the official comprehensive plan and the other component portions of the land development code.

(2) The city is primarily a residential community; but has the elements of a true city. The primary goals of the city, upon which the comprehensive plan was developed, are to preserve the natural beauty, pleasant environment and unique character of the city; to retain the quality of our existing residential neighborhoods by encouraging the residents to maintain and improve their property and protect these areas from the encroachment of detrimental and noncompatible land uses; and to insure that future residential areas are well planned and provided with full and adequate urban services. The intent of this zoning article is to insure that these goals are pursued and to insure that other necessary and desired land uses are located and regulated to encourage the development of the city toward the city's adopted goals.

(3) This article is also adopted for the following purposes:

- a. To promote and protect the public health, safety, comfort, morals, and general welfare;
- b. To secure adequate light, pure air, privacy, and convenience of access to property;
- c. To regulate and limit the heights and size of buildings, to regulate and limit the intensity of use of lot areas, to regulate and determine the areas of open spaces between buildings, to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses;
- d. To protect against fire, panic, explosion, noxious fumes and other dangers;
- e. To secure clean waterways and other public bodies of water and to protect public land and conservation areas;
- f. To promote a wholesome, serviceable and attractive city, increase the safety and security of home life, and preserve and create a more favorable living environment;
- g. Encourage the redevelopment and renewal of blighted areas;
- h. Encourage the elimination or reduction of uses inconsistent with the City's character and future land uses;
- i. Discourage the proliferation of urban sprawl;
- j. Ensure the availability of suitable land for utilities necessary to support proposed development;
- k. Ensure the protection of natural resources, the natural environment and designated historically significant resources, structures and properties and
- l. Relate future growth and future land uses appropriately with topography, soil conditions and the availability of facilities and services;
- m. Ensure smooth and orderly land use transition;
- n. Ensure infill development is compatible with surrounding properties.

(4) This general statement of the goals, intent and purpose of this article includes, among others, the specific purposes set forth in the preamble to the respective districts and groups of districts.

(5) The city has developed over the years as a city with a unique character and environment. Since a primary goal of the city is to retain this environment as much as possible, this article

must impose certain extraordinary restrictions on the use of land within the corporate limits of the city to insure that future development is in keeping with the existing development.

(6) The regulations and requirements herein set forth have been made in accordance with the city's comprehensive plan, adopted pursuant to F.S. ch. 163 and applicable rules of the state department of community affairs. In the preparation of the comprehensive plan, reasonable consideration has been given to, among other things, the prevailing land uses, growth characteristics and the character of respective districts and their peculiar suitability for particular uses, and the encouragement of the most appropriate use of land throughout the city.

(b) *Official zoning map.*

(1) The city is hereby divided into zones or districts as shown on the official zoning map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this article.

(2) The official zoning map shall be identified by the signature of the mayor, attested by the city clerk and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map of the City of Winter Park, Florida."

(3) If in accordance with the provisions of these zoning regulations changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the city commission.

(4) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this article. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this article.

(5) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in City Hall shall be the final authority as to the correct zoning status of land and water areas, buildings and other structures in the city.

(c) *Official zoning map.*

(1) The city commission may by ordinance adopt a new official zoning map or amendments there to which shall supersede the prior official zoning map.

(2) The official zoning map may be updated from time to time to approved amendments or to include any updates, correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map.

## **Sec. 58-64. Nonconforming Lots, Nonconforming Uses and Nonconforming Structures.**

### *(a) Purpose and intent.*

(1) Within the zoning districts established by this article or amendments that may later be adopted here exist: (a) lots; (b) structures, and (c) uses of land and structures which were lawful before this article was passed or amended, but which would be prohibited, regulated or restricted under the terms of this article or future amendment. It is the intent of this article that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or to allow uses prohibited elsewhere in the same district.

(2) Nonconforming uses are incompatible with permitted uses in the districts involved. A nonconforming use of land or of a structure or in combination shall not be extended or enlarged after passage of this article by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

(3) To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of amendment of this article and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction provided that work shall be carried on diligently.

### *(b) Nonconforming lots of record.*

(1) Notwithstanding any limitations as to frontage and total area imposed by any other provision of this article, any residential lots which were of record upon any recorded plat upon August 25, 1971, may be used to construct thereon a dwelling in conformity with the district provided (a) that such dwelling does not exceed a two-family residence as defined in this article, (b) that such lots shall have a minimum width throughout their length of at least fifty (50) feet, (c) that any such dwelling shall conform to the requirements for the district in which it is located, (d) that wherever there may exist a residence which by itself or with accessory structures exists on a building site containing more than one platted lot of record, such building site shall not henceforth be reduced or diminished in dimension or area below the minimum requirements set forth in this article for the district in which it is located (regardless of whether the residence or accessory structures have been demolished, destroyed or removed from there, in whole or in part).

(2) If two or more lots or combinations of lots and portions of lots with continuous frontage are under single ownership at any time after April 12, 1994, and if all or part of the lots do not meet the requirements for lot width or area imposed by any other provision of this article, the lots involved shall be considered to be an undivided parcel for the purposes of this article, and no portion of such lot shall be used or sold which does not meet lot width and area requirements established by this article, nor shall any division of the parcel be made which leaves remaining any lot or parcel with width or area below the requirements stated in this article.

(c) *Nonconforming structures.*

Where a lawful structure exists at the effective date of adoption or amendment of this article that could not be built under the terms of this article by reason of restrictions on area, lot coverage, height, yards, floor area ratio, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No nonconforming structure or portion thereof may be enlarged or altered in a way which increases its nonconformity, including enlargement of a structure or building into a required setback at any floor level (irrespective of the gross building area), but any structure or portion thereof may be altered to decrease its nonconformity.
- (2) If a nonconforming structure or portion thereof be demolished or destroyed through repair, remodeling, reconstruction or any other means to an extent of more than fifty (50%) percent of its replacement cost at the time of demolition or destruction, it shall not be reconstructed or restored except in conformity with the provisions of these zoning regulations. Removal and replacement of a nonconforming portion of a building with a new structure (such as new walls or roof) is not to be permitted.
- (3) If a nonconforming structure is to be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (4) Should such nonconforming structure be demolished, destroyed, or damaged by fire, wind storm, hurricane, tornado, flood, explosion, or other such calamity, such structure may be rebuilt or restored to its original dimensions as long as the nonconformities are not increased beyond the pre-existing condition.

(d) *Nonconforming uses of land, nonconforming structures or structures and land in combination.*

If lawful use involving land or individual structures or involving structures and land in combination, exists at the effective date of adoption or amendment of this article that would not be allowed in the district under the terms of this article, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this article.
- (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this article.
- (3) No existing structure devoted to a use not permitted by this article in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in its zoning district
- (4) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this article, but no such use shall be extended to occupy any land outside such building.



(5) If any structure, or part of a structure, or a structure and land in combination, in or on which a nonconforming use exists, is then superseded by a permitted use, the structure, structure and land in combination or any part of the structure or land shall then thereafter conform to the regulations of its zoning district, and the nonconforming use may not thereafter be resumed.

(6) When a nonconforming use of land or a structure or land and structure in combination is discontinued for three (3) consecutive months (except when governmental action impedes access to the premises), the land or structure or land and structure in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located. If a nonconforming use is discontinued or abandoned on a portion of the land or structure for three (3) consecutive months, that portion of the land or structure shall not thereafter be used except in conformity with the regulations of the district in which it is located. Land or structures shall not be deemed to be active and in continued nonconforming usage solely from the existence of a state license or local business tax receipt permitting such a use or business, but such use or business must be actively undertaken, staffed and in operation, unless other facts show legally sufficient activity, for such use or business to be deemed in active continued nonconforming usage.

(7) When the nonconforming use of a structure involves an accessory garage apartment or other accessory living unit, if such accessory use is not occupied by a tenant for six (6) consecutive months, then the structure must be used in conformity with the regulations of its zoning district, unless such unit has been actively advertised for lease or purchase during the six (6) month period.

(8) Where nonconforming uses status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purposes of this subsection is defined as damage to an extent of more than fifty (50%) percent of the replacement cost at the time of destruction.

(e) *Repairs and maintenance.*

(1) On any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, provided that the cubic content existing when it became nonconforming shall not be increased.

(2) If a nonconforming structure becomes physically unsafe or unlawful due to the lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

(3) Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(f) *Special Permit.*

(1) The intent and purpose of this section is to recognize that there are limited and special circumstances where overall community and public policy objectives of the city encourage, and

shall be served by, the continuation of some nonconforming uses and structures, provided said uses and structures are not detrimental to the surrounding neighborhood and to the community values established in the city's comprehensive plan and city codes. The city commission desires to establish specific standards for this category of special permit in order to allow the continuation of some nonconforming uses and structures notwithstanding any contrary provisions of this article or City Code.

(2) The city commission at a duly held public hearing may grant a special permit to allow the continuation of a nonconforming use or structure provided the following terms and conditions are strictly satisfied:

a. The owner of the property on which the nonconforming use or structure exists files a special permit application provided by the city; and

b. The applicant demonstrates that the continuation of the nonconforming use or structure:

1. Is capable of contributing in a positive way to the character and serves the need of the community, or reuse of buildings with architectural or historic value; and reuse of buildings that generate a significant necessary economic benefit to the community; and

2. Is compatible with, and not detrimental to, the surrounding neighborhood in terms of traffic, noise, parking, odor, light, intensity and land uses, hours of operation, landscaping, aesthetics, structural design, and density; and

3. Is consistent with the community values, objectives, and policies established in the city's comprehensive plan and City Code.

(3) The city commission may impose conditions and safeguards as a condition of approval of any special permit granted under this section and may also provide time limits and expiration of such special event.

## **Sec. 58-68. Medium Density Multiple Family Residential (R-3) District.**

(a) *Purpose and intent.* This district provides areas within the city for medium density residential developments. Residential development shall be limited in height and ground coverage to encourage medium density multi-family structures, as well as duplex and single family residences. The regulations of this district are so designed to stabilize, protect and provide the essential characteristics of a suitable residential environment.

(b) *Permitted uses.*

(1) Single family residences per the development standards of the R-2 district or as outlined in this section.

(2) Duplexes per the development standards of the R-2 district or as outlined in this section.

(3) Multiple family residences per the development standards of cluster housing within the R-2 district or as outlined in the section.

(c) *Conditional uses.* The following uses may be permitted after review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90. Conditional Uses.

(1) Any conditional use permitted in the R-1AA district and R-1A district;

(2) Kindergartens, day nurseries and other child or adult day care facilities;

(3) Adult congregate living facilities;

(4) Nursing homes, retirement homes or villages, assisted living facilities for retirees, provided such building(s) are located at least fifty (50) feet from any other residential property.

(5) Residential complexes which are developed and operated by the Winter Park Housing Authority, or by nonprofit 501(c) corporations providing affordable housing and receiving financial support for affordable or workforce housing from agencies of the federal, state or city government. For such projects the following minimum requirements are met:

a. The density shall not exceed one unit per 1,000 square feet of ground area;

b. Parking spaces provided shall not be less than one space per residential unit;

c. No minimum apartment size shall be required; however, the average size of all the residential units shall not be less than 500 square feet in floor area;

d. The site on which the complex is to be located shall be served by public utilities and streets capable of accommodating the increased residential densities permitted by this section;

e. The property owner enters into a formal agreement with the city to pay all taxes and fees required by the city or enters into contractual agreement for a payment in lieu of taxes to the city, whichever shall apply because of ownership.

(6) Tennis courts;

(7) Buildings over 10,000 square feet or any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size, but not including detached accessory buildings such as garages, carports, storage buildings, etc.

(8) Buildings with a third floor within the central business district, which requires the affirmative votes of four city commissioners to be approved;

(9) Non-profit educational facilities, deemed non-profit pursuant to IRS standards, limited to locations within the Central Business District, provided that the proposed use enables an appropriate adaptive reuse of a historic landmark building such that the historic character of the building is preserved for the duration of its new function. Buildings eligible for consideration include those buildings listed in for listing in the National Register of Historic Places as shown on the most recent *Winter Park Architectural Survey and National Register Evaluation*, or that represent a designated historic landmark of exceptional local significance as determined by the Winter Park Historic Preservation Commission. A use that would require modifications to the building or site shall be locally designated and receive a Certificate of Review under Sections 58-457 through 58-478. In addition, any such approval must meet the general conditional use requirements and the standards for consideration.

(10) Bed and breakfast inns provided such location is one hundred (100) feet from any single family residence.

(d) *Minimum building site.*

(1) The minimum building site required for either a single family residence or a duplex shall be the same as required by the R-2 district.

(2) The minimum building site for a multiple family complex shall be 15,000 square feet with a minimum front width of 100 feet and a minimum depth of 100 feet. For properties with less than 15,000 square feet in size, the provisions of the R-2 zoning district shall apply.

(3) The minimum ground area per dwelling unit shall be 2,500 square feet and the maximum density shall be seventeen (17) units per acre.

(e) *Development standards.*

(1) Development in the R-3 district, at the discretion of the property owner, may meet the requirements of the R-2 district or shall meet the following R-3 development standards. The requirements of R-2 district must be met for lots which are 65 feet wide or less.

	Single Family	Duplexes	Multi-family housing
Min. land area (sq. ft.)	6,000	9,000	15,000
Min. lot width (ft.)	50	50	100
Min. land area per unit	6,000	4,500	2,500
Min. building setbacks (ft.):			
front yard	25	25	25
side yard	10	10	20
rear yard--one-story	10	10	20
rear yard--two-story	25	25	25
Max. building coverage	35%	35%	40%
Max. impervious coverage	60%	65%	70%
Max. building height (ft.)	30*	30*	35*
Min. off-street parking	2/unit	2/unit	2.5/unit

\*Note: The Comprehensive Plan limits development in the R-3 zoning district to a maximum of two stories in certain locations.

(2) Each residential unit shall have a minimum living area of 750 square feet or if efficiency units are to be included within the complex, the average living area of the residential units within the complex shall at least equal 750 square feet.

(3) On corner lots, the building director shall determine the principal street front yard to comply with a minimum twenty-five (25) foot front setback and the secondary street(s) to comply with a minimum twenty (20) foot setback. All setbacks to be measured from the property lines.

(4) The maximum floor area ratio shall be one hundred ten (110%) percent for any building of three stories, and a maximum of seventy-five (75%) percent for any building of two stories or less. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio, including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features, as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(5) The land area included within interior courtyards enclosed by more than seventy-five (75%) percent by the surrounding building shall not be included within the pervious land area calculation, unless the interior courtyard is predominately visible from the street.

(6) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

**Sec. 58-69. Multi-family (High Density R-4) District.**

*(a) Purpose and intent.*

(1) The purpose of this district is to permit certain areas within the city to be developed for high density residential use. Areas which may be suitable for intense development include areas around the urban core and adjacent to major arterial streets.

(2) The regulations for this district attempt to encourage developments which are compatible with the existing residential character of the city and would not negatively impact existing residential neighborhoods. To accomplish this, appropriate open space, sufficient setbacks, buffers, density limits and height limitations are required. Only those areas of the city with sufficient public facilities such as utilities and roads capable of accommodating the use generated by the high-density permitted by this district can be so zoned.

*(b) Permitted uses.*

(1) Single family residences per the development standards of the R-2 or R-3 district or as outlined in this section.

(2) Duplexes per the development standards of the R-2 or R-3 district or as outlined in this section.

(3) Multiple family residences per the development standards of cluster housing within the R-2 or R-3 district or as outlined in the section.

*(c) Conditional uses.* The following uses may be permitted after review by the planning and zoning commission and approval by the city commission. See Sec. 58-90. Conditional Uses.

(1) Any conditional use permitted in the R-1AA, R-1A and R-2 districts;

(2) Kindergartens, day nurseries and other child or adult day care facilities;

(3) Adult congregate living facilities;

(4) Nursing homes, retirement homes or villages, assisted living facilities for retirees, provided such building(s) are located at least fifty (50) feet from any other residential property.

(5) Residential complexes which are developed and operated by the Winter Park Housing Authority, or by nonprofit 501(c) corporations providing affordable housing and receiving financial support for affordable or workforce housing from agencies of the federal, state or city government, provided that the following minimum requirements are met:

a. The density shall not exceed one unit per 1,000 square feet of ground area;

b. Parking provided shall not be less than one space per residential unit;

c. No minimum apartment size shall be required; however, the average size of all the residential units shall not be less than 500 square feet in floor area;

d. The site on which the complex is to be located shall be served by public utilities and streets capable of accommodating the increased residential densities permitted by this section;

e. The property owner enters into a formal agreement with the city to pay all taxes and fees required by the city or enters into a contractual agreement for a payment in lieu of taxes to the city, whichever shall apply because of ownership.

(6) Tennis courts.

(7) Buildings over 10,000 square feet or any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.

(8) Buildings with a third floor within the Central Business District, which requires the affirmative votes of four city commissioners to be approved.

(9) Bed and breakfast inns provided such location is one hundred (100) feet from any single family residence.

(d) *Minimum building site.*

(1) The minimum building site for either a single family residence or a duplex shall be the same as required by the R-2 district.

(2) The minimum building site for a multiple-family complex constructed within this district shall be 20,000 square feet with a minimum front width of 100 feet and a minimum depth of 100 feet and for properties with less than 20,000 square feet and at least 15,000 square feet, the provisions of the R-3 district shall apply.

(3) The minimum ground area required per dwelling unit shall be 1,750 square feet and the maximum density shall be twenty-five (25) units per acre.

(e) *Development standards.*

(1) Building and accessory structures, thirty-five (35) feet in height or less, shall meet the following setbacks: front yard of twenty-five (25) feet; side yards of twenty (20) feet; and a rear yard of twenty-five (25) feet. For each additional ten feet or fraction thereof above thirty-five (35) feet in height, there shall be an additional five-foot setback for each front, side yard and rear yard. On corner lots, the building director shall determine the principal street front yard which must comply with a minimum twenty-five (25) foot front setback, and the secondary street(s) which must comply with the minimum twenty (20) foot setback.

(2) The maximum floor area ratio shall be two hundred (200%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land



located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(3) Each residential unit shall have a minimum living area of 750 square feet or if efficiency units are to be included within the complex, the average living area of the residential units within the complex shall at least equal 750 square feet.

(4) Principal and accessory structure building lot coverage shall not exceed fifty-five (55%) percent of the total area of the site.

(5) The maximum building height in the R-4 district is fifty-five (55) feet, however, if the property is located within the Central Business District, the maximum height is three stories and forty (40) feet and any third floor requires approval as a conditional use. Variances for more than three stories in the Central Business District are prohibited. Parapet walls or mansard roofs functioning as parapet walls may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers and related non-occupied structures may be permitted to extend up to ten (10) feet above the height limits in this subsection. Mechanical and air conditioning equipment shall be screened from view on the ground level and shall be located to the maximum extent possible so that they are not visible from any street. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis, encompassing no more than thirty (30%) of the building roof length and area, up to eight (8) feet of additional height, upon approval of the city commission, based on a finding that said features are compatible with adjacent projects.

(6) The maximum impervious coverage shall not exceed seventy-five (75%) percent and the land area included within interior courtyards enclosed by more than seventy-five (75%) percent by the surrounding building shall not be included within the pervious land area calculation unless predominately visible from the street.

(7) The development standards for either a single family residence or a duplex constructed within this district shall be the same as outlined in the development standards of the R-3 District.

(8) Properties with less than 20,000 square feet of land area and at least 15,000 square feet are permitted to develop per the standards of the R-3 district.

(9) A one hundred (100) foot setback is required between any above grade parking garages or decks constructed within this district and any property used for single family or low density residential

(10) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

## **Sec. 58-71. General Provisions for Residential Zoning Districts.**

(a) *Suitability of buildings.* Any proposed building shall be considered as to its suitability of design and type of construction in relation to the district and to the immediate neighborhood site, and if such design or construction is markedly incongruous with the character of such neighborhood as to be detrimental to the value of adjacent or nearby properties, then the code enforcement director shall deny the application for a building permit.

(b) *Grading of building site.*

(1) Every lot which is used for a building site shall be so graded that it will be dry and free from standing water and the grade around the walls of every new building at the point where the sill meets these walls shall not be less than 12 inches above the crown line established or to be established for the street on which such a building faces, unless the lot has drainage away from the street to the lake or canal or has other adequate means of drainage as may be checked and approved by the city engineer at the request of the city building director. If the street on which the lot faces has a slope between lot lines, an elevation half-way between the high and low points is to be used for determining the height of crown line.

(2) No lot owner shall grade his lot in such a way as to interfere with the natural drainage of adjoining lots or divert the drainage of his lot onto adjoining lots nor to interfere with the natural drainage of any lot so that the drainage of such lot is diverted upon any public street or thoroughfare in such a manner or in such amounts as to flood such public street or thoroughfare.

(c) *Architectural towers, spires, chimneys, or other architectural appendages, etc.*

(1) Any architectural tower, spire, chimney, flag pole or other architectural appendage to a building shall conform to that districts height limit. However, when necessary to meet the building code requirements, chimneys may exceed the height by that minimum required distance.

(2) Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in that section, except on one or two family buildings on a limited basis encompassing no more than thirty (30) feet of the building roof length and area, up to eight (8) feet of additional height upon approval of the City Commission, based on a finding that said features are compatible with adjacent projects. For any such approval not part of a conditional use request the planning and zoning commission will review the plans at a public hearing after notification of such request is mailed to all owners of property within 500 feet. The planning and zoning commission will make a recommendation to the city commission for their final decision.

(d) *Parking of commercial vehicles in residential districts.*

(1) The regular or constant parking of commercial vehicles or vehicles used primarily for commercial purposes, or vehicles having outside lettering larger than three square feet in area per side displaying information identifying a business, product or service, including trucks (with a rated capacity over one ton), semi-trailers, truck tractors or any combination thereof or any other truck or special mobile equipment or heavy equipment, building materials and other similar materials is not permitted within the residential zoning districts (R-1AAA, R-1AA, R-1A, R-2, R-3, R-4 or PURD).

(2) Exceptions. The provision of this section shall not apply to:  
a. Property where construction is underway, for which a current and valid building permit has been issued by the city, as to those vehicles and equipment actively engaged in such construction;

b. Those vehicles and equipment being used to perform lawful work upon the premises where the vehicle is parked, including immediate pick up or delivery service;

c. Any vehicle, with a capacity rating under 10,000 pounds, that is parked entirely inside a garage and not visible from the street or from surrounding properties;

d. Political signage on vehicles as otherwise permitted by the sign regulations.

(e) *Buses and mobile homes.* No mobile homes, as defined in the state statutes, shall be parked within a residential district. In residential districts, buses shall be parked only in designated bus parking areas approved pursuant to the notification and procedures outlined for conditional uses.

(f) *Boats, trailers, and recreational vehicles.*

(1) Boats, trailers of any type, recreational vehicles, as defined in state statutes (including campers, travel trailers and motor homes) and similar vehicles shall not be parked or stored within any residential district including public rights-of-way, except as hereinafter specifically permitted. Under no circumstances shall any boat, trailer or recreational vehicle be slept in or otherwise used for lodging or habitation while parked or stored within a residential district.

(2) Boats and boat trailers may be parked if stored entirely within a carport, garage or enclosed structure. Recreational vehicles (including campers, travel trailers, and motor homes) and trailers (other than boat trailers) may be parked if stored entirely within a garage or other enclosed structure. As used herein, a garage or other enclosed structure shall mean a structure having at least 75 percent opaqueness.

(3) Boats, trailers and recreational vehicles having an overall length of 32 feet or less may be parked in a private driveway within a residential district for an aggregate of not more than 24 hours during any one calendar week.

(4) Boats, trailers and recreational vehicles may be parked or stored within side or rear lot areas of properties in residential districts provided no portion thereof shall be visible from the public right-of-way.

(5) The parking of boats, trailers and recreational vehicles in side and rear lot areas is permitted only if fences, walls and landscape screening including hedges, trees, etc. of heights necessary to substantially screen the view of the boat, trailer or recreational vehicle shall be constructed and planted so as to buffer adjacent residential properties.

(6) Residents may allow their guests to park a boat, trailer or recreational vehicle having a length of 32 feet or less for up to seven days in the driveway or behind the main structure of the lot on which it is parked, provided that the building official shall be notified no later than 24 hours after such vehicle is so parked. After seven days have passed, at least 30 days shall elapse before the same vehicle shall be permitted to park on the same lot for another seven days.

(g) *Projections into setbacks.* Eaves, roof overhangs, open fire escapes, balconies, canopies, and awnings may project into the minimum yard or setback areas up to 3 1/2 feet. Chimneys and flues may project into the minimum yard or setback area up to three feet. Fabric canopies, awnings, etc. with ground supports are considered a structure and shall observe the setback requirements of the districts in which they are located. Bay windows may project two feet into the front, street side yard and rear setbacks and are limited to a maximum width of eight feet. Second floor open porches, two-story high columns or similar features shall not project into the required front setback or street side setback.

(h) *Corner lot and other residential setbacks.*

(1) *Front of lot.* For corner lots, the side having the least street frontage shall be considered the front for setback purposes; however, the building director may waive this requirement and determine the front yard to be on the street front which is in line with the prevailing pattern of front yards on the street in order to be consistent with the established pattern of the street. For lots with front lot lines that are not generally perpendicular to the side lot lines and create a projection out on one side of the lot, the front setback shall be applied at the non-projecting side of the lot and shall be extended across the lot perpendicular to the side lot line.

(2) *Corner lot.* In case of corner lots, the side yard setback toward the street shall be 15 feet on lots where the front of the lot has a width at the building line of 65 feet or less. On those corner lots where the front of the lot has a width at the building line of more than 65 feet to 75 feet, a setback of 20 feet to the first floor and 22.5 feet to the second floor shall be provided on the street side yard. A setback of 25 feet shall be provided on corner lots over 75 feet in width, and the rear yard setback may be reduced by five (5) feet on each floor. These special corner lot setbacks are applicable within the R-1AAA, R-1AA and R-1A districts and within single family areas of planned unit residential districts (PURD). Accessory buildings, swimming pools, spas and tennis courts shall also be set back according to these setbacks. The 22 ½ and 25 foot side yard setbacks shall not apply to properties in the R-3, and R-4 districts. The street side yard setback for lots over 65 feet in width for lots in the R-2 district shall be twenty (20) feet.

(3) *Through lots.* In case of through lots, front yards shall be provided on all street frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the building director may waive the requirement which shall not exceed the average of the yards provided on adjacent lots.

(4) *Lots of unusual shape.* For any lots of unusual shape, not forming part of a general rectangular lot pattern, the building director shall prescribe front and side yard setbacks subject to the following limitations:

a. No front yard shall be required to have a greater depth than is required generally within the district.

b. No side yard shall be required to have a greater width than the depth required generally for front yards within the district.

(5) *Garage setbacks.* All corner lots shall maintain a setback to a garage opening of at least twenty (20) feet from any lot line so as to preclude the parking of autos over a sidewalk.

(6) *Nonconforming building additions.* One-story residential building additions may be constructed less than the required side setback on lots built in line with the predominant side wall setback of an existing dwelling subject to the following conditions:

- a. The existing dwelling has a nonconforming side setback of five feet or greater.
- b. The length of the proposed addition does not exceed twenty-four (24) feet.
- c. The proposed addition is one-story.
- d. A letter of approval from the adjacent property owner is provided to the city.

(i) *Accessory buildings, structures, air conditioning equipment and other accessory uses in residential zones.*

(1) No detached accessory use or structure shall be permitted in the required front yard. On double frontage lots or corner lots, no detached accessory use or structure shall be permitted in the required yards fronting on the streets. In addition, no storage sheds shall be permitted in the area between the building line of the main structure and street or streets.

(2) An accessory building may be attached to a principal structure by a one-story open sided roofed breezeway with a maximum width of eight (8) feet connected to the principal structure without meeting the setback requirements of the principal building and complying with the setbacks of the accessory building; however, all other zoning requirements must be met, such as impervious coverage, building coverage or floor area ratio, where applicable.

a. Air conditioning equipment, swimming pool equipment and electric generators shall not be located in any front yard or side yard with street frontage unless totally shielded from view from the street by shrubbery or walls and fences otherwise complying with the zoning code. Air conditioning equipment may be located up to ten (10) feet from a rear lot line as long as they are adjacent to the accessory structure or principal structure. Air conditioning compressors and electric generators shall not be located in any side yard or within ten (10) feet from the rear lot line except that they may be permitted six (6) feet from a side or rear property line if written permission is granted by the adjacent property owner. Any air conditioning equipment placed on a roof must be screened from view from surrounding properties and from public streets.

b. Other accessory structures or buildings, up to 100 square feet in size, may be located five feet from a side or rear interior property line. Accessory buildings over one hundred (100) square feet in size up to 320 square feet shall not be located closer than ten feet to any rear property line, and any two-story accessory building shall meet the same rear and side setback as required for the principal structure. No accessory structure shall exceed a height of eighteen (18) feet unless located so as to comply with the setbacks of the principal structure.

c. Accessory buildings in rear yards: The exterior walls of accessory buildings shall not exceed 10.5 ft in height measured from natural grade to the roof sheathing surface unless placed at the same setback as required for the principal building. Additionally, accessory buildings located less than 10 feet from an interior side lot line must have a sloped or flat roof, e.g., the side wall adjacent to the lot line cannot be a gable end wall. Accessory buildings greater than 550 square feet (including garages) must comply with building setbacks of the principal building, except a

garage with a maximum area of 820 square feet which meets the requirements of this section may be located 10 feet from the rear lot line and must meet the required side setback of the home. A rear garage utilizing the setbacks in this section must be located in the rear third of the lot depth. All accessory buildings exceeding 320 square feet in size shall comply with the setback requirements of the principal building, except that a garage not exceeding 550 square feet may be located five feet from the interior side lot line and ten feet from the rear lot line. Additionally, private garages (attached or detached) shall be limited in size to no greater than 50 percent of the living area of the dwelling.

(3) Accessory structures for the housing of persons such as guest houses, bedrooms and garage apartments including bathrooms but excluding swimming pool cabanas, shall not be located in any required yard. Pool cabanas and greenhouses no more than 500 square feet in area may be located five feet from the side lot line and ten feet from the rear lot line.

(4) An accessory building or structure shall not be located within five (5) feet of any other building. The building height of any accessory building shall not exceed the building height of the main building or principal residence on the property.

(5) A combination of accessory structures, singly or together shall exceed ten (10%) percent of the lot area. In addition, no lot shall contain more than two storage sheds(buildings).

(6) A guest house or garage apartment shall not be constructed on a lot for occupancy before completion of the main buildings. This shall not prohibit the erection of other accessory buildings prior to the construction of the principal building, when such accessory buildings are neither constructed nor used for dwelling purposes.

(7) Guest houses or garage apartments are permitted accessory uses when they provide accommodations for guests, servants or members of a family occupying the main building on the same property. Guest houses or garage apartments shall not exceed 1,000 square feet of floor area. Guest houses or garage apartments as permitted accessory uses may not have a kitchen area or cooking facilities. They also may not have separate utility meters or be rented, let or hired out for occupancy whether compensations be paid directly or indirectly. In order to insure that these provisions are understood as ownership of property transfers and to protect the city from a proliferation of prohibited nonconforming rental uses, all applicants for building permits for guest houses or garage apartments, or for the substantial improvement of same shall record a deed restriction outlining the above restrictions and conditions of that building permit. That deed restriction shall be recorded prior to the issuance of the building permit and shall be removed only with the consent of the city. Substantial improvement for the purposes of this section shall be work totaling more than twenty-five (25%) percent of the replacement construction value of the original accessory structure.

(8) An arbor, pergola or trellis structure may be placed up to five feet from side and rear lot lines and the over-head beams or framing members may be permitted to terminate on top of a six-foot wall or solid fence subject to a maximum length of eighteen (18) feet when attached along a side or rear yard wall or fence. The overall maximum height shall be ten feet, except within the building area of the lot, the structure may extend to no higher than the height of the principal building on the property. In front yard and street yard setback areas, a decorative arbor or trellis may be placed fifteen (15) feet from any front lot line or ten feet from any street side yard lot line, subject to approval by the building director and a maximum size of fifty (50) square feet.



(9) *Play structures.* Play structures, tree forts and similar play structures used by children that incorporate an elevated floor level type of raised or elevated platform for walking or playing upon which has a height equal to or greater than six feet above natural grade shall maintain a side and rear setback of at least fifteen (15) feet. If attached accessories are incorporated including swings, slides and similar play items used by children that are not six feet in height or over those play structures may be permitted a side and rear setback of five feet . Play structures include playground type equipment, swings, slides, forts and similar structures used by children. All other provisions of accessory building regulations shall also apply.

(j) *Swimming pools and screen enclosures.* Swimming pools for private residential use are accessory uses and shall be constructed in accordance with the Florida Building Code. The location of pools, pool decks and screen enclosures shall be as follows:

(1) Swimming pools and spas are permitted to have a rear setback of ten (10) feet and a side setback of 7.5 feet for lots which are 60 feet wide or less and are permitted to have a side and rear setback of ten (10) feet for lots which are over 60 feet in width. The setback to a lake, canal or stream shall not be construed as a side or rear setback.

(2) Pool decks shall be located no closer to the side and rear lot line than fifty (50%) percent of the required setback for swimming pools. Pool decks may be permitted in the remaining area of the required side and rear setbacks only if screened from the adjacent property by a six-foot masonry wall. The setback to a lake, canal or stream shall not be construed as a side or rear setback. Instead, on lakefront lots, pool decks must be set back a minimum of fifty (50) feet from the ordinary high water elevations established in this article. On stream front or canal front lots, pool decks may be setback a minimum of twenty (20) feet from the canal bulkhead if approved by the planning and zoning commission.

(3) Screen pool enclosures on lakefront, canal front or stream front lots shall be regulated as structures and located only within the required setbacks and as approved by the planning and zoning commission. Screen pool enclosures on non-waterfront lots shall be regulated as structures and located only within required setbacks for the respective zoning district except as provided for in the following paragraphs:

a. The rear setback may be ten feet, subject to limiting the height of the screen enclosure to ten feet at the sides of the enclosure and thirteen (13) feet at the apex of the enclosure with increases in height allowed on a basis of one-to-one ratio from that point to the twenty-five (25) foot setback. For example: a screen enclosure with a rear yard setback of eleven (11) feet could be built with side walls no higher than eleven (11) feet and the apex of the enclosure at the middle could be fourteen (14) feet in height.

b. The rear setback may be seven and one-half (7.5) feet subject to limiting the height of the screen enclosure to seven and one half (7.5) feet in height at the rear setback and compliance to the height limitations cited above provided that there is also a dense landscape or solid fence buffer along the rear lot line to a minimum height of six (6) feet installed and maintained.

(4) Other screen enclosures (not enclosing a swimming pool or spa) with screen roofs shall also be regulated as described above.

(k) Tennis courts. Tennis courts require side and rear setbacks of ten(10) feet. Their associated backstop and side fencing shall also conform to these setbacks and shall not exceed twelve

(12) feet in height. The composition of this fencing shall be chain link or other decorative fencing that does not impede the flow of air and which received the approval of the building director. The location of tennis courts, the composition and height of tennis court fences, the nature of any lighting and control of storm water shall be subject to the approval of the planning and zoning and city commissions.

(l) *Residential decks; patios.* Any deck or patio shall not be closer to the side lot line than fifty (50%) percent of the required side setback. Decks or patios may not be located closer than five (5) feet from a rear property line. These provisions shall apply to decks or patios only if they are less than two (2) feet above grade otherwise such decks or patios must conform to the setbacks for the main structure.

(m) *Residential driveways; parking spaces; motor courts, sidewalks, etc.* Any residential sidewalk, driveway, parking space or other vehicle circulation area, whether of a paved surface such as asphalt, concrete or brick, or of an unpaved surface, such as gravel, mulch or dirt, shall be setback at least two feet from the side or rear property lines, except where a common drive is permitted between adjoining properties or a non-conforming drive exists and does not create any drainage problem for an adjacent property. On lots that are 60 feet wide or less, a one foot setback may be utilized as the driveway setback along a side lot line. The drive and parking surfaces must be designed to prohibit the diversion of drainage from vehicle driveways, parking or circulation areas onto adjacent properties.

(n) *Walls and fences.*

(1) *Permits.* Requests for permits for walls and fences must be accompanied by a site plan and drawings clearly showing the locations, heights and materials for which approval is requested.

(2) *Height in residential districts.* In front yards, and in side yards with street frontages, walls and fences shall not exceed three (3) feet in height above the street curb elevation. However, these decorative front yard or street frontage walls and fences may be permitted columns or posts to exceed this height limit by one (1) foot provided they are spaced at least ten (10) feet apart. Light fixtures may also be placed on columns at driveway entrances up to one (1) foot in height. In street side yard areas of corner lots, a decorative fence or wall may be constructed five (5) feet in height above the existing ground level when setback at least ten (10) feet from the street side property line. In all other side and rear yard areas, walls and fences may be a maximum of six (6) feet in height above the ground. Where compliance with these height limits could cause a hardship due to the natural sloping topography of a particular lot, the administrative official may permit portions of a fence or wall to be up to eight (8) feet in height in areas where the normal maximum height would be six (6) feet; and where fences are normally limited to three (3) feet in height above the street curb elevation, the administrative official may permit the fence to be measured from the natural ground level rather than the curb. No wall or fence shall be permitted which would in any way obstruct or impair the visibility of automobiles at intersections and points of ingress and egress to the public right-of-way. Walls and fences on the lakefront, canal front, or stream front side of properties shall meet the requirements established in this Article for such water front properties. For purposes of locating walls and fences, front yards shall be the area from the front lot line to the front building wall or as determined by the building director.



(3) *Materials permitted in residential districts.* In any residential district, fences in the front yard or in a side yard with street frontage shall be decorative. Chain link, chicken wire or similar type fences shall be prohibited. Barbed wire, electrically charged fences and solid or mostly solid metal fences shall not be erected in any residential district. A wall, fence or similar structure erected in any residential district shall not contain material or substances such as broken glass, spikes, nails, barbs or similar materials designed to inflict pain or injury on any person or animal.

(4) Additional fence height for certain fencing in front and street side yard areas. Fencing up to a maximum height of four (4) feet shall only be permitted on a case by case basis by the town architect or building official for decorative open fencing such as wrought iron, aluminum, or similar types of fencing in front yards and in street side yard areas with additional requirements such as landscaping and a setback from the lot line as determined for the specific property, and subject to not creating a traffic visibility hazard at points of ingress and egress to the public right-of-way. Wood, PVC (polyvinylchloride) and similar type picket fences are limited to 3.5 feet in height.

(5) The column and post height of a wall or fence may exceed the allowable wall or fence height by a maximum of two feet in areas outside the front yard and street side yards provided they are spaced twenty (20) feet apart in side and rear yards, except the additional two (2) feet of post height may be permitted on columns located on either side of entry gates in areas outside the front yard and street side yards.

(6) Walls shall be finished on both sides with similar architectural treatments and color on both surfaces so that, for example, a brick veneered masonry wall shall have brick veneer on both sides or a stuccoed masonry wall shall have a stucco finish on both sides, unless different surface treatments and color are agreed upon by the property owners on both sides of the wall and the building director.

(o) *Building to have access.* Every building hereafter erected or moved shall be on a lot adjacent to a public street or approved private street. The structures on these lots shall be so located so as to provide safe and convenient access for servicing, fire protection, other emergency vehicles, and required off-street parking. Furthermore, no building hereafter erected or moved shall be on a lot sole adjacent to an unpaved road.

(p) *Land and building uses seen generally.* (See general provisions for non-residential districts for applicable regulations).

(q) *Solid waste containers.* Prior to the issuance of a building permit, plans for the location or use of any solid waste container must show the location of container(s) for solid waste disposal. The number of containers, their location and access to them for unloading purposes are subject to the approval of the city. Solid waste containers or dumpsters shall be screened from view of surrounding properties for all new development. Recycling containers may be exempted from this requirement by the city.

(r) *Relocation or moving a building.*

(1) No building shall be moved into or relocated to a new site within the city and no work shall be commenced in preparation therefore, unless a moving permit has first been issued.

(2) Applicants shall submit to the city photographs showing all elevations of the structure to be moved, the proposed relocation site with proposed setbacks and other details to allow

verification of compliance with zoning requirements, detailed plans setting forth the new site and foundation plans signed and sealed by a civil or structural engineer registered and licensed in the state. Plans shall also show the proposed route to be taken and the hours in which the building will be moved. Plans shall show the proposed date of commencement of work on the building in preparation for moving and the proposed date of completion of moving.

(3) Plans shall be reviewed by the city's administrative staff to determine that the proposed route, time of moving, and relocation of site are in conformity to the zoning, building and other applicable regulations of the city, and will not inconvenience the public or damage property.

(4) Plans shall also be submitted to all utility companies located in the city for their review and issuance of moving permits shall be conditioned upon approval of utility companies. Utility companies shall be entitled to make such requirements as they deem necessary to insure the utilities of the area will not be damaged or interrupted during the moving process.

(5) Prior to the issuance of a moving permit, the building shall be inspected by the building division of the city to insure that it is in conformity to the necessary building, plumbing, electrical, and other codes of the city or sufficient plans shall be provided showing compliance with all applicable building codes, and any deficiencies shall be corrected prior to the issuance of a moving permit or prior to final inspection approval of the building on the new site.

(6) Moving permits shall be issued only to companies or persons duly licensed as building movers in the city and who have posted the required \$10,000.00 bond. The code enforcement director of the city shall have the authority to require such other and additional bonds as may be necessary to insure that the building is moved in a safe and proper manner and that property is protected. Any damage to city property or city trees shall be compensated by the building mover based on the cost of repairs for damage to city infrastructure including but not limited to electrical equipment, water and sewer systems, streets, curbs, sidewalks, drainage conveyances, street lights and signs. Compensation for tree damage shall be in accordance with Section 58-287.

(7) The building director shall have the power to accept or reject an application for a moving permit and may impose such additional regulations, conditions, or restrictions, as it deems necessary or proper to insure that the building is moved in a safe and proper manner, that property is protected during the moving process, that the moving process will not unreasonably inconvenience the public and that the building proposed to be moved will fit harmoniously into the neighborhood wherein it is to be located. Applicants may appeal these decisions to the city commission. Larger buildings over 2,500 square feet in gross area may be referred to the city commission for approval and any building moving applicant may appeal building moving determinations of the building director to the city commission.

(s) *Curb cut permits.* Any proposed construction in zoning districts other than R-1AAA, R-1AA, R-1A and R-2 shall have its access points or curb cuts for off-street parking facilities approved by the building director. In all such cases where that use has an access point or curb cut onto one public street, no additional curb cuts may be made onto another public street without the approval of the building director. Approval shall be based on a finding that no additional traffic will be directed onto local residential streets.

(t) *Satellite dish antenna.*

(1) One satellite dish-shaped antenna is permitted as an accessory structure for each property within the residential districts of the city. The size of the satellite antenna shall not exceed ten (10) feet in diameter or twelve (12) feet in height.

(2) Satellite dishes in residential districts shall be setback fifteen (15) feet from the rear and/or side property lines. No satellite dish shall be permitted in front yards or in any yard area that is visible from any public right-of-way.

(3) Satellite dishes in residential districts shall be of the metal mesh variety that is painted in a corresponding color so as to blend in with the surrounding vegetation or buildings. Landscape screening including hedges, trees, etc. of heights necessary to screen the view of the dish shall be planted so as to buffer adjacent neighbors.

(4) Satellite dish-shaped antennae are permitted as accessory structures for properties within the nonresidential districts of the city. The number, location, and size of all satellite dishes on such properties shall be first subject to the site plan approval by the code enforcement director to insure that such satellite dishes are located in a manner to be not visible from any public street or visible as little as reasonably possible.

(5) A building permit shall be required for the installation of all satellite dishes so as to precipitate inspection for compliance with this section and for anchoring in accordance with the requirements of the building code.

(6) The above regulations shall only apply to satellite dish antenna greater than one (1) meter in diameter.

(u) *Underground utilities.*

(1) It is the intent of the city to improve the aesthetic appeal of the city and the reliability of utility service by requiring that utility lines such as electric, telephone, cable TV, fiber optics and other utilities, be placed underground in conjunction with the construction of all new buildings. The implementation of underground utilities shall also be required as a component to the substantial renovation of any existing building. Substantial renovations shall be interpreted as when the building permit value of such renovations and/or additions exceeds fifty (50%) percent of the value of the existing improvements on the most current property tax roll. Property owners shall provide space on-site within the private property or within the building for any necessary pad mounted transformers and switch gear and shall screen such to the degree possible with landscaping or other approved screening when visible from the public right-of-way.

(2) The city recognizes that certain physical elements such as existing buildings, swimming pools, large trees and such may impose unreasonable hardships on property owner's compliance with the placement of utilities underground and for the location of transformers. Upon confirmation of these hardships by the utility companies, the building director may waive this requirement for such projects or may allow the waiver of up to two (2) required parking spaces to be used for the required pad mounted transformer and switch gear.

(v) *Duplex-modified yard developments.*

(1) This development concept is to provide for more flexible and creative site planning which may assist in lowering development and housing costs, expand the choice and type of dwelling units while maintaining compatibility with, and the integrity of, adjacent residential neighborhoods.

(2) "Duplex-modified yard development" defined. A duplex-modified yard development shall consist of a building designed for, or occupied exclusively by, two families and containing dwelling units erected as a single building on adjoining lots, each being separated from the adjoining unit by an approved party wall, thereby creating noncommunicating dwelling units. Such buildings shall be designated duplex-modified yard dwellings.

(3) Duplex-modified yard developments shall be permitted only when a declaration of covenants and restriction containing or addressing the provisions set forth in subsection (5) below is executed by all holders of any interest in or lien upon the real property upon which the duplex-modified yard dwelling is constructed, is approved by the city attorney as to form and content and is recorded in the Public Records of Orange County, Florida. Those desiring to utilize these duplex-modified yard provisions shall reimburse the city for the costs of the review and approval by the city attorney.

(4) The adjoining lots on which each duplex-modified yard dwelling is constructed shall together be considered to be one lot for the purpose of compliance with the development standards applicable to the particular zoning district in which the duplex-modified yard dwelling is located.

(5) The declaration of covenants and restrictions shall contain or address the following:

a. A legal description of the entire parcel of real property upon which the duplex-modified yard dwelling is constructed, hereinafter referred to as the "duplex-modified yard development property," and legal descriptions of each separate parcel therein to be subjected to fee simple ownership;

b. A provision that restrictions shall run with the land, and shall not be amended or rescinded without the written consent of the city commission;

c. A provision designating those portions of the duplex-modified yard development property that will be commonly used by both fee simple owners, if any; establishing mutual easements permitting such use and governing the insurance, maintenance and repair thereof;

d. A provision governing the insurance, maintenance and repair of all party walls;

e. A provision governing the insurance, maintenance and repair of all exterior portions of all improvements to the duplex-modified yard development property. This provision must require that any exterior maintenance or repair performed with respect to any portion of the duplex-modified yard development property be accomplished in such a duplex-modified yard development property as a whole, i.e., the entire duplex-modified yard dwelling must be repainted at the same time under a common color scheme.

f. A provision governing the landscaping of the duplex-modified yard development property. This provision must require that the landscaping be performed and maintained at all times in

such a manner so as to preserve the overall appearance and value of the duplex-modified yard development property as a whole.

g. A provision governing the method by which the owners of the duplex-modified yard development property will be assessed for the expenses of insurance, maintenance and repair of those items set forth in the preceding paragraphs of this subsection. This provision must include a means by which one owner may perform any necessary maintenance or make any necessary repairs to the duplex-modified yard development property and receive contribution from the other owner should the other owner unreasonably refuse to bear his portion of the expense. This provision must also include a description of the remedies that the contributing owner shall have against the noncontributing owner, such remedies being generally consistent with the remedies afforded to co-tenants in common, and a method by which disputes concerning the necessity or reasonableness of a given item of maintenance or repair may be resolved.

h. An optional provision establishing an incorporated owner's association to perform the duties of insurance, maintenance, repair and assessment described above. The owner's association may operate more than one duplex-modified yard development property in a common manner not inconsistent with this section.

(6) The foregoing duplex-modified yard development standards shall also apply to principal and cottage dwelling developments with the following provisions:

a. The two dwelling units (principal and cottage dwellings) are not required to be joined by a common party wall.

b. The dwelling units must be provided with at least ten feet of driveway access to each of the dwellings from the public street or alley.

(w) *Lots with shallow depth.* The platted lots within Blocks 46 through 53 of the Town of Winter Park subdivision or any other lot with an average a lot depth of 70 feet or less shall be enabled to utilize a ten (10) foot rear setback in lieu of the twenty-five (25) foot rear setback given the unusual shallow depth of these platted lots, provided the overall building height does not exceed one story within the typical twenty-five (25) foot rear setback area.

(x) *Significant changes to buildings or approved plans.* Various sections of this zoning article require approvals by the planning and zoning commission and/or city commission. Within the section for conditional uses there are specific requirements defining significant changes for conditional uses. For all other types of approvals, the standards below will determine whether a significant change or substantial deviation shall be deemed to have occurred which then would require a subsequent review and approval for those changes by the planning and zoning commission and/or the city commission as follows:

(1) When there is an increase in the height of a building of more than one (1) foot; or

(2) When there is an increase in the square footage of a proposed building of more than 250 square feet above grade; or

(3) When there is an increase in the impervious lot coverage of more than 500 square feet; or

(4) When there is a change in the architectural style of the building; or

(5) When there is a major shift or relocation of the site and floor plan(s) or distribution of uses within the building or major shift or relocation in the features of building location, storm water retention, parking area and/or driveways; or

(6) When additional variances are requested that were not part of the original public record in the review by the planning and zoning commission and/or the city commission; or

(7) When the planning director, building director or city commission finds that a material change has been made to a plan detail that was critical to the decision rendered by the board or the commission.

(y) *Tents. (See general provisions for non-residential districts for applicable regulations).*

(z) *Special events. (See provisions for non-residential districts for applicable regulations).*

(aa) *Home occupations.*

(1) *Generally.* Any use customarily conducted entirely within a dwelling and carried on by members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, is permitted as a home occupation provided that there is used no sign or display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling, there is no commodity sold upon the premises and no mechanical or electrical equipment is used except such as is permissible for purely domestic or household purposes, and no clients, customers or guests connected with the business may visit the property. Fabrication of articles, such as are commonly classified under the terms "arts and handicrafts" may be deemed a home occupation.

(2) *Requirements for receiving a home business certificate.* All home occupations shall be required to obtain a business certificate prior to the start of such business and use of the property. The applicant must submit the following in order to obtain a business certificate. Business certificates issued for home occupations shall only be issued to the residential address and not to a post office box.

a. Address number and tax ID number of the property;

b. A survey or sketch with dimension showing the floor plan and the area to be utilized for the home occupation along with the total floor area of the residence;

c. A detailed written description of the exact nature of the home occupation;

d. If the residence is a rental unit, a notarized letter of approval for the home occupation from the property owner or property manager is necessary; and

e. A signed copy of the home occupation regulation form.

(3) *Prohibited home occupations.* The building director shall make determination as to whether any business qualifies as a home occupation based upon its type and operational characteristics. The following list of uses indicates some the businesses which shall be prohibited as home occupations, but is not intended to be a complete list:

- a. Adult entertainment;
- b. Antique shops;
- c. Auto service and repair;
- d. Barber shop and beauty salon;
- e. Bed and breakfast facilities;
- f. Body scrubs, body art or tattoo;
- g. Child care of more than five pre-school children and/or five after-school children (see family day care definition);
- h. Churches;
- i. Clothes modeling or sales;
- j. Clubs, private;
- k. Escort services;
- l. Food processing and handling;
- m. Fortune tellers;
- n. Group instruction of more than two persons;
- o. Health spas;
- p. Kennels or overnight boarding of animals;
- q. Massage therapy;
- r. Retail commercial operations;
- s. Taxi or limousine service;
- t. Vehicle sales/rental;
- u. Storage or warehousing.

(4) *Storage of merchandise.* No merchandise shall be displayed or sold on the premises. No outside display of merchandise or outside storage of equipment or materials shall be permitted.

(5) *Employees.* No person shall be engaged in any home occupation as an employee or volunteer worker other than members of the immediate family residing in the dwelling unit. No accessory building shall be used for such home occupation. Any home occupation that creates objectionable noise, fumes, odor, dust, electrical interference shall be prohibited.



(bb) *Short term rental of residential dwellings.* The rental, use or occupancy of any residential dwellings for less than one month shall be prohibited.

(cc) *Construction tolerances.* The city's building director may permit setback encroachments up to six inches upon request in writing on a sworn affidavit from the property owner attesting to the cause or reason for the error relating to technical reasons that is subject to acceptance by the city.

(dd) *Limitation on first or second floor walls of buildings in residential zoning districts.* First or second floor walls of buildings in residential zoning districts shall not extend above the top plate of the first floor for one-story buildings or above the second floor top plate of two-story buildings so as to create additional wall height or the appearance of an additional story unless such area is part of the allowable floor area and meets the required setbacks. This limitation does not prevent the provision of a parapet wall for flat roof buildings.

(ee) *Required two-story setback applies.* The required two-story setback shall apply to walls, which extend twelve (12) feet in height or more above the existing pre-construction grade for buildings in residential zoning districts.

(ff) *Residential attics.* Attic areas may be air conditioned subject to meeting State Energy Code requirements (including insulation, wall treatments and similar minimal finishing provisions) and subject to a maximum area of 200 square feet. Other non-air conditioned attic spaces shall not have drywall or other wall finishing materials and shall only have minimal lighting unless the residential building has additional floor area available which does not exceed the allowable floor area ratio for the property.

(gg) *Canton Park site development standards.* The property described as and known as Canton Park Subdivision shall have the following development standards for lots in the R-2 and R-1A zoning district:

Front setback to main dwelling: 23 feet  
Porch setback: 15 feet from front lot line

Side setbacks: Eight feet on one side and 12 feet on opposite side.

Rear setback: 25 feet to main dwelling. Lots less than 90 feet deep may utilize a rear setback of ten feet.

Garages in rear: Ten feet to rear lot line and five feet to side lot line

Chimneys and bay windows may encroach two feet into the setback.

Side setback to a porte cochere is two feet.

Rear screened porches may be connected to the garage.

Air conditioning compressors shall observe a five feet side setback.

Other zoning provisions shall apply where applicable or not covered under this subsection.



(hh) *Affordable and workforce housing density bonus.* The development of affordable/workforce housing is a priority of the State Comprehensive Plan and the City's Comprehensive Plan. As such, in some cases incentives are necessary to insure the provision of affordable/workforce housing especially within Winter Park with extremely high land costs, along with typical construction costs. The City Commission on a case by case basis may permit the maximum densities within the zoning districts to be exceeded by up to five units per acre when such allowances are used exclusively for the construction of affordable/workforce housing. This incentive shall not permit additional floor area ratio, building lot coverage or building height but is intended to allow additional units within the building parameters otherwise permitted by the respective zoning district.

(ii) *Parking garage setbacks.* Any above grade parking garage or parking deck shall be setback at least one hundred (100) feet from any property used for single family or low density residential. The distance shall be measured from the closest point of the parking garage structure to the property line of the property used for single family or low density residential.

(jj) *Gateway plan conformance.* Pursuant to the desire to provide attractive entrance features and architectural interest at the gateway entrances into the City, the City Commission shall have the authority in the review of plans for the development or redevelopment of properties to negotiate for a portion of such property to be reserved for the construction of gateway design structures, and the City Commission may negotiate on a case by case basis, depending on the size of the project, a financial arrangement between the property owner/developer and the City to facilitate the construction of gateway design structures.

## **Sec. 58-72. Office (O-1) District.**

### *(a) Purpose and intent.*

(1) The purpose and intent of this office district is to provide areas in the city to accommodate business and professional offices as well as residential development if the residential components are predominately located above the ground floor. Areas zoned for office use shall be appropriately located throughout the city to serve the general public and not create an adverse effect on adjacent residential areas. A mix of uses within buildings is permitted subject to the criteria specified in this district.

(2) The city encourages the location of office structures in appropriate locations so that business and professional services can adequately and conveniently serve the city's residents.

### *(b) Permitted uses.*

(1) Hospitals (but not animal hospitals);

(2) Professional offices, such as those of architects, medical doctors, interior designers, physical therapists, state licensed massage therapists, dentists, engineers, attorneys, public accountants, stockbroker's offices, real estate offices, executive or administrative offices for business, insurance offices; travel agencies; post offices;

(3) Medical and dental laboratories;

(4) Financial institutions, including banks, savings and loan associations and credit unions;

(5) Off-street parking lots except those parking lots may not be used for the parking of construction equipment, trucks, drill rigs or by car/truck/van rental companies;

(6) Professional services of photographic studios and photographic production when done in conjunction with photographic studios for their exclusive use;

(7) Fine arts museums and fine arts instruction including: Art instruction limited to painting, sculpture, pottery and photography. Dance instruction limited to ballet, tap, jazz and modern dance. Music instruction limited to piano, symphony instruments, acoustic guitar but not electric guitar or other amplified instruments.

(8) Churches, non-profit organizations' offices, and schools less than 5,000 square feet in size. (see parking requirements for limitations).

*(c) Accessory uses permitted.* The city commission, following a public hearing, may approve the location of the following accessory and ancillary uses within structures permitted in this district. These uses must be located within the primary office structure (not within a separate structure) and must be primarily for the use and convenience of occupants of the building. These uses shall not have separate public entrances to the outdoors nor separate outdoor advertising signs or any other advertising signs which encourage use by the general public. The city commission may recommend other restrictions or requirements including a maximum floor area, which would allow these accessory commercial uses to be in harmony with the otherwise office environment and which would prevent these accessory uses from having an adverse effect on the surrounding area.

- (1) Restaurant or cafeteria;
- (2) Newspaper, card and gift shop, florist, fitness center or health club.
- (3) Pharmacy store within a medical office building which sells prescription and nonprescription drugs, medicines and medically related equipment only.

(d) *Conditional uses.* The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90. Conditional Uses.

- (1) Drive-in components of any business;
- (2) Buildings over 10,000 square feet, any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.
- (3) Any conditional use provided in the R-3 or R-4 districts utilizing and limited to the site and improvement regulations of this district for those conditional uses.
- (4) Fitness facility, exercise or health club.
- (5) Any building with residential units as a component of the building. However, time shares are not permitted.
- (6) Churches, non-profit organizations' offices, and schools 5,000 square feet or larger in size. (See parking requirements for limitations).
- (7) Buildings within the Central Business District with a third floor up to forty (40) feet in height, which requires the affirmative votes of four (4) city commissioners to be approved.

(e) *Minimum building site.* There shall be no minimum building site size except that each site shall have a minimum frontage of fifty (50) feet on a publicly dedicated right-of-way.

(f) *Development standards.*

(1) Any building constructed within this district shall adhere to the following minimum or required setbacks for front, rear and side yards. The front setback from all streets shall be a minimum of ten (10) feet from the property line and a minimum of fifteen (15) feet on Orlando Avenue and on the north side of Fairbanks Avenue and twenty (20) feet on the south side of Fairbanks Avenue. For properties along Orange Avenue, the front setback may be reduced to the average front setback of the existing buildings within that block if approved by the City Commission. Side yard setbacks shall be a minimum of five (5) feet from each property line unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. The rear setback shall be a minimum of thirty (30) feet from the property line. However, within the Hannibal Square Neighborhood Commercial District area, as set forth in this section, new buildings shall have a required ten (10) foot front setback and may be permitted zero-foot side setbacks unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot side setback shall be observed. For any required front setback, the distance may be increased upon the determination by the public works director and

police chief that a traffic sight distance safety problem may exist, to the extent required to remedy the problem.

(2) If a person constructing a building within this district desires to combine the minimum side yard setbacks and provide them on only one side of the lot, a site plan showing the locations of the proposed building as well as the location of existing adjacent buildings must be submitted to the planning and zoning commission for approval prior to the issuance of a building permit. This reduction to the required side setback however, shall not be permitted if adjacent to a residentially zoned parcel.

(3) The maximum floor area ratio and building lot coverage shall be forty-five (45%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The forty-five (45%) percent floor area ratio and building lot coverage may be increased by an additional five (5%) percent if the parking for the increased five percent floor area ratio is located entirely underground beneath the building's footprint or if the building's upper floor(s) are cantilevered over such parking.

(4) Exclusively residential buildings are not permitted. Residential units are not permitted on the first or ground floor. When residential units are included on the second floor or above, the floor area ratio of the project may be up to sixty (60%) percent FAR, but the maximum floor space that can be devoted to non-residential (office) uses is forty-five (45%) percent floor area ratio. Limited residential use of the first or ground floor of such buildings may be permitted when such space is limited to the functions of entrance lobby/elevator/stair access, leasing or management office, or residential amenity spaces, such as health/fitness, meeting/activity room or storage. However, in no case shall more than fifteen (15%) percent of the first or ground floor be devoted to these ancillary residential uses (not counting the area of parking garages).

(5) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(6) The maximum residential density shall not exceed seventeen (17) units per acre.

(7) Building heights shall not exceed the height limits imposed by the Maximum Height Map. For those properties shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height shall be forty-two and a half (42.5) feet unless the property is located within the Central Business District, where the maximum height for three stories shall be forty (40) feet. Variances for more than three stories in the Central Business District are prohibited. For those properties shown with a four story maximum height, the maximum building height shall be fifty-five (55) feet; for those properties shown with a five story maximum height, the maximum building height shall be sixty-five (65) feet, and for the properties shown permitting up to eight stories, the maximum height shall be ninety-five (95) feet. Unless specifically approved by the City Commission, as a conditional use, buildings developed with less than the maximum building stories shall conform to the height for the applicable stories. For example, if a two story

building is developed within an area permitting a four story building, the two story building shall conform to the thirty (30) foot height limit. Parking garage levels shall be counted as stories for each level except for any basement level or the open roof level.

(8) Parapet walls or mansard roofs functioning as parapet walls may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers and related non-occupied structures may be permitted to extend up to ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis, encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet of additional height, upon approval of the city commission, based on a finding that said features are compatible with adjacent projects.

(9) For properties not shown on the Maximum Height Map, located adjacent to four lane roadways, the maximum height shall not exceed fifty-five (55) feet, and the maximum height shall not exceed forty-two and a half (42.5) feet for properties located adjacent to two lane roadways. For corner properties adjacent to both four lane and two lane roadways, the maximum height shall be fifty-five (55) feet.

(10) Terracing and articulation providing additional setbacks are required to create relief to the overall massing of the building facades. Such design features of building façade articulation are required at least every sixty (60) feet on average along the primary building façades facing streets, or along the building frontage where the building fronts the primary parking lot area. For any building over two stories in height and over 200 feet in length, there shall be a thirty-five (35) foot break on at least the first floor, the design of which shall be a component of the architectural review process required for conditional use. For any building over two stories or 30 feet in height, a significant portion comprising at least seventy-five (75%) percent of the top floor shall be terraced and stepped back from the exterior face of the next lower floor by at an average of at least five (5) feet. Parking structures are exempt from this terracing requirement.

(11) Development shall not exceed eighty-five (85%) percent impervious coverage in this district.

(12) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(13) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management regulations (Article II).

(g) *Hannibal Square Neighborhood Commercial District.*

(1) The Hannibal Square Neighborhood Commercial District (HSNCD) area in this context shall be restricted to the following areas:

- a. Properties abutting Morse Boulevard between Capen Avenue and Virginia Avenue;
- b. Properties abutting New England Avenue between Pennsylvania and New York Avenues;
- c. Properties abutting Pennsylvania Avenue between Lyman and Garfield Avenues, including those existing commercial properties just north of Garfield Avenue; and
- d. Properties abutting Hannibal Square East.

(2) In order to implement the comprehensive plan and the community redevelopment area (CRA) plan, there are established special provisions for the development of buildings and other improvements in this area which shall take precedence over other provisions of this article as henceforth specified.

(3) In this HSNCD area, third floors shall be restricted and limited to residential use only, and a deed restriction to that effect, enforceable by the City, shall be required to be recorded as a condition of obtaining a building permit for the construction of a third floor.

(4) Building heights on the north end of Pennsylvania Avenue shall be two stories maximum when transitioning to residential.

(5) Development approvals must ensure that compatible land use relationships occur, particularly between land uses within perimeter areas of the HSNCD and areas 500 feet outside this area so as to protect the surrounding residential areas and institutional uses.

(6) In this HSNCD area, all new buildings and building additions over 250 square feet shall require site and building plan approval by the city commission at a public hearing. Prior to that hearing, the planning and zoning commission shall also review such site and building plans at a public hearing and shall provide their recommendation.

(7) Notwithstanding the limitations otherwise imposed by this O-1 district, for any lots fronting on New England Avenue from Virginia to New York Avenues, development may be permitted with enhanced density and intensity up to a maximum 100% floor area ratio (FAR) provided the following development standards are complied with:

- a. No parking garages would be permitted.
- b. The street front building setback shall be 10 feet.
- c. The redevelopment plans would require rear alley access out to Virginia Drive or provisions shall be made for that rear alley access to be phased in over time as the properties individually redevelop.
- d. The maximum building width along New England Avenue shall be 125 feet before a 15 foot separation is required to break up the mass and create a separate building.
- e. The redevelopment plans on the north and south side of New England Avenue require a 50 foot rear setback from the center lot line of the block as a buffer protection to adjacent residential properties. The 50 feet also provides room for parking along the alley as outlined above.
- f. There shall be a one foot setback for each one foot of floor height for any third floor and building corner visibility setbacks as deemed necessary.

(h) *Morse Boulevard design guidelines.*

(1) The Morse Boulevard designated area is defined as those properties fronting Morse Boulevard between New York Avenue and Denning Drive and additionally the properties in the blocks bounded by Morse Boulevard, Denning Drive, Canton Avenue and Harper Street.

(2) In addition to the other requirements and regulations of the O-1 zoning district and prior to the issuance of a building permit for the construction, renovation or remodeling of any building or building exterior facade fronting on a street within the Morse Boulevard designated area, an applicant is required to obtain approval of the plans by the planning department.

(3) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building facade.

(4) Building elevation drawings and other plans shall be submitted with sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(5) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(6) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(7) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to the Morse Boulevard design guidelines and criteria adopted by the city commission.

(8) The decision of the planning and zoning commission shall be the final decision of the City, except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.



## **Sec. 58-73. Office (O-2) District.**

(a) *Purpose and intent.* The purpose of this district is to provide areas in the city to accommodate business and professional offices as well as residential development if the residential units are predominately located above the ground floor but limited from the scale and intensity permitted in the office (O-1) district due to the site's location and context such as the existence of adjacent or proximate residential areas. This office district is intended for areas in the city in which commercial or industrial development would be undesirable due to the existence of adjacent residential districts. A mix of uses within a building is permitted subject to the criteria specified in this district.

(b) *Permitted uses.*

(1) Professional offices, such as those of architects, medical doctors, interior designers, physical therapists (excluding personal training services), state licensed massage therapists, dentists, engineers, attorneys, public accountants, stockbroker's offices, real estate offices, executive or administrative offices for business, insurance offices, travel agencies, etc.

(2) Medical and dental laboratories;

(3) Fine arts instruction including: Art instruction limited to painting, sculpture, pottery and photography. Dance instruction limited to ballet, tap, jazz and modern dance. Music instruction limited to piano, symphony instruments, acoustic guitar but not electric guitar or other amplified instruments.

(4) Financial institutions, including banks, savings and loan associations and credit unions;

(5) Off-street parking lots, except those for the parking of construction equipment, trucks, drill rigs or by car/truck/van rental companies;

(6) Professional services of photographic studios and photographic production when done in conjunction with photographic studios for their exclusive use.

(7) Churches, non-profit organizations' offices and schools less than 5,000 square feet. (See parking requirements for limitations).

(c) *Conditional uses.* The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90 Conditional Uses.

(1) Any building exceeding one-story which is located within 100 feet of a single-family district; e.g., R-1AA or R-1A;

(2) Drive-in components of any business;

(3) Buildings over 10,000 square feet; or any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.



(4) Any conditional use provided in the R-3 district utilizing and limited to the site and improvement regulations of this district for those conditional uses and a two-story height limit.

(5) Any building with residential units as a component of the building. However, time shares are not permitted.

(6) Churches, non-profit organizations' offices and schools 5,000 square feet or larger in size. (See parking requirements for limitations).

(d) *Minimum building site.* There shall be no minimum building lot size except that each site shall have a minimum frontage of 50 feet on a publicly dedicated right-of-way.

(e) *Development Standards.*

(1) Any building constructed within this district shall adhere to the following minimum or required setbacks for front, rear and side yards. The front setback from all streets shall be a minimum of ten (10) feet from the property line. Side yard setbacks shall be a minimum of five (5) feet from each property line unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. The rear setback shall be a minimum of thirty (30) feet from the property line. However, within the Hannibal Square Neighborhood Commercial District, as set forth in this section, new buildings shall have a required ten (10) foot front setback and may be permitted zero-foot side setbacks unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. For any required front setback, the distance may be increased upon the determination by the public works director and police chief that a traffic sight distance safety problem may exist.

(2) If a person constructing a building within this district desires to combine the minimum side yard setbacks and provide them on only one side of the lot, a site plan showing the locations of the proposed building as well as the location of existing adjacent building must be submitted to the planning and zoning commission for approval prior to the issuance to a building permit to ensure sufficient compatibility with adjacent properties. This reduction to the required side setback however, shall not be permitted if the property is adjacent to a residentially zoned parcel.

(3) The maximum floor area ratio and building lot coverage shall be forty-five (45%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The forty-five (45%) percent floor area ratio and building lot coverage may be increased by an additional five (5%) percent if the parking for the increased five (5%) percent floor area ratio is located entirely underground beneath the building's footprint or if the building's upper floor(s) are cantilevered over such parking.

(4) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(5) Exclusively residential buildings are not permitted. Residential units are not permitted on the first or ground floor. When residential units are included on the second floor or above, the floor area ratio of the project may be up to sixty (60%) percent FAR, but the maximum floor space that can be devoted to non-residential (office) uses is forty-five (45%) percent floor area ratio. Limited residential use of the first or ground floor of such buildings may be permitted when limited to the functions of entrance lobby/elevator/stair access, leasing or management office or residential amenity spaces such as health/fitness, meeting/activity room or storage. However, in no case shall more than fifteen (15%) percent of the first or ground floor be devoted to (not counting the area of parking garages) these ancillary residential uses.

(6) The maximum residential density shall not exceed seventeen (17) units per acre.

(7) Building heights shall not exceed two story height limits, and the maximum building height shall be thirty (30) feet for flat roof buildings and thirty-five (35) feet for peaked roof buildings. Parapet walls or mansard roofs functioning as parapet walls on flat roofed buildings may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers shall not extend more than ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis, encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet of additional height, upon approval of the City Commission, based on a finding that said features are compatible with adjacent developments.

(8) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) or shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(9) Development shall not exceed eighty-five (85%) percent impervious coverage in this district.

(10) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulation (Article II).

(g) *Hannibal Square Neighborhood Commercial District.*

(1) The Hannibal Square Neighborhood Commercial District (HSNCD) area shall be restricted to the following areas:

- a. Properties abutting Morse Boulevard between Capen Avenue and Virginia Avenue;
- b. Properties abutting New England Avenue between Pennsylvania and New York Avenues;
- c. Properties abutting Pennsylvania Avenue between Lyman and Garfield Avenues, including those existing commercial properties just north of Garfield Avenue; and
- d. Properties abutting Hannibal Square East.

(2) In order to implement the comprehensive plan and the community redevelopment area (CRA) plan; there are established special provisions for the development of buildings and other improvements in this area which shall take precedence over other provisions of this article.

(3) In the HSNCD area, all new buildings and building additions over 250 square feet shall require site and building plan approval by the city commission at a public hearing. Prior to that hearing, the planning and zoning commission shall also review such site and building plans at a public hearing and shall provide their recommendation.

(4) In addition to the code parameters outlined above, the portion of the HSNCD and CRA District comprising properties that front on New England Avenue between Virginia and New York Avenues may be developed with enhanced density and intensity. Notwithstanding the limitations otherwise imposed by this O-2 district, for any lots fronting on New England Avenue from Virginia to New York Avenues, development may be permitted with enhanced density and intensity up to a maximum 100% floor area ratio (FAR) provided the following development standards are complied with:

- a. No parking garages would be permitted.
- b. The street front building setback shall be 10 feet.
- c. The redevelopment plans would require rear alley access out to Virginia Drive or provisions shall be made for that rear alley access to be phased in over time as the properties individually redevelop.
- d. The maximum building width along New England Avenue shall be 125 feet before a 15 foot separation is required to break up the mass and create a separate building.
- e. The redevelopment plans on the north and south side of New England Avenue require a 50 foot rear setback from the center lot line of the block as a buffer protection to adjacent residential properties. The 50 feet also provides room for parking along the alley as outlined above.
- f. There shall be a one foot setback for each one foot of floor height for any third floor and building corner visibility setbacks as deemed necessary.

(h) *Central Business District Area facade review.*

(1) In addition to the other requirements and regulations of the O-2 zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building exterior facade fronting on a street within the central business district, an applicant is required to obtain approval of the plans by the planning department.

(2) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building facade.

(3) Building elevation drawings and other plans shall be submitted with sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten (10) working days, excluding holidays, of the receipt of a complete set

of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(5) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(6) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to design guidelines and criteria adopted by the city commission.

(7) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.

(i) *Morse Boulevard design guidelines.*

(1) The Morse Boulevard designated area is defined as those properties fronting Morse Boulevard between New York Avenue and Denning Drive and additionally the properties in the blocks bounded by Morse Boulevard, Denning Drive, Canton Avenue and Harper Street.

(2) In addition to the other requirements and regulations of the O-2 zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building or building exterior facade fronting on a street within the Morse Boulevard designated area, an applicant is required to obtain approval of the plans by the planning department.

(3) Building elevation drawings and other plans shall be submitted with sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building facade.

(5) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(6) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(7) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to the Morse Boulevard design guidelines and criteria adopted by the city commission.

(8) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development

approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.

## **Sec. 58-74. Commercial (C-1) District.**

### *(a) Purpose and intent.*

(1) Shopping centers have unique development requirements which are dissimilar from other commercial areas; therefore, this section establishes a separate commercial zoning district intended to be used in connection with the city's shopping centers.

(2) This district establishes restrictions to insure that shopping centers are designed and located to minimize traffic congestion on public highways and streets in their vicinity and to best fit the general land use pattern of the area to be served by the center. The protective standards contained in this district are intended to minimize any adverse effect of the center on nearby property values and to provide for safe, efficient use of the center itself and safe, adequate and attractive parking areas.

(3) Shopping centers are intended to provide areas for a combination of uses including retail businesses, personal services, banking and professional services and office facilities to serve either a small neighborhood or the entire community.

(4) It is the intention of this district to locate shopping centers only at locations that the city commission determines are suitable. Shopping centers are not permitted in the Central Business District or within the Hannibal Square Neighborhood Commercial District. The city commission may call upon the applicant to furnish additional information establishing compatibility with adjacent uses to justify the rezoning or use of land for a shopping center.

*(b) Permitted uses.* All business uses and activities shall be conducted exclusively and wholly within an enclosed building except those uses permitted which are customarily conducted in the open such as off-street parking, plant and landscape garden sales and outdoor patio dining. Storage shall be limited to accessory storage of commodities sold at retail on the premises and storage shall be within a completely enclosed building. Some minimal display of bulk merchandise for sale within the business may be permitted outside and adjacent to an enclosed building but only if under a permanent covered building canopy but not to include vending machines.

(1) Retail business involving the sale of merchandise on the premises within enclosed buildings but excluding resale establishments or pawn shops (other than clothing resale stores).

(2) Establishments involved in the rendering of a personal or business service including banks, or similar financial institutions, barber shop, beauty and nail salon, spa, cosmetic treatments coin-operated laundries, dry cleaning establishments, post offices, restaurants or lounges, theaters (except drive-ins), and travel agencies but specifically excluding tattoo, body art, or fortune telling businesses.

(3) Business, financial, governmental, medical and professional offices, agencies and clinics; including physical therapy and state licensed massage therapist.

(4) Off-street parking areas and garages except those for the storage of construction equipment;

(5) Permanent recreational facilities within enclosed soundproof buildings but excluding adult video arcades;

(6) Private and semi-private clubs, lodges, halls and/or social centers;

(7) Uses customarily incidental and accessory to the permitted uses, including the repair of goods of the type sold in stores in the center, provided that such repair may not be carried on as a separate business, and provided, further, that there shall be no manufacturing, assembling, compounding, processing or treatment of products, other than that which is clearly incidental and essential to the permitted uses.

(8) Churches, non-profit organizations' halls/lodges and schools (see parking requirements for limitations).

(d) *Conditional uses.* The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90 Conditional Uses.

(1) Drive-in components of any business;

(2) Buildings over 10,000 square feet or any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size;

(3) Any conditional use provided in the R-3 or R-4 districts utilizing and limited to the site and improvement regulations of this district for those conditional uses;

(4) Fitness facility, exercise or health club;

(5) Any building with residential units as a component of the building. However, time shares are not permitted.

(d) *Minimum site for shopping center.* The minimum parcel to be zoned for this district shall be two acres. Such parcel must be located in part on a street or highway considered to be major arterial street and capable of carrying the high volume of traffic a shopping center will generate.

(e) *Development standards.*

(1) Any building constructed within this district shall adhere to the following minimum required setbacks for front, rear and side yards. The front setback from all streets shall be a minimum of fifteen (15) feet from the property line. Side and rear yard setbacks from interior property lines within or adjacent to any other C-1 district parcel shall be a minimum of five (5) feet from each property line, but shall be twenty (20) feet to any other non-C-1 zoned parcel and thirty-five (35) feet to any residentially zoned parcel. For any required front setback, the distance may be increased upon the determination by the city that a traffic sight distance safety problem may exist to the extent required to remedy the problem.

(2) If a person constructing a building within this district desires to combine the minimum side yard setbacks and provide them on only one side of the lot, a site plan showing the locations of the proposed building as well as the location of existing adjacent building must be submitted to the planning and zoning commission for approval prior to the issuance to a building permit to ensure sufficient compatibility with adjacent properties. This reduction to the required side setback however, shall not be permitted if adjacent to a residentially zoned parcel.



(3) The maximum floor area ratio and building lot coverage shall be forty-five (45%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The forty-five (45%) percent floor area ratio and building lot coverage may be increased by an additional five (5%) percent if the parking for the increased five percent floor area ratio is located entirely underground beneath the building's footprint or if the building's upper floor(s) are cantilevered over such parking or if it is for a hotel building.

(4) Exclusively residential buildings are not permitted. Residential units are not permitted on the first or ground floor. When residential units are included on the second floor or above, the floor area ratio may be up to sixty (60%) percent FAR, but the maximum floor space that can be devoted to non-residential (office) uses is forty-five (45%) percent floor area ratio. Limited residential use of the first or ground floor of such buildings may be permitted when limited to the functions of entrance lobby/elevator/stair access, leasing or management office or residential amenity spaces such as health/fitness, meeting/activity room or storage. However, in no case shall more than fifteen (15%) percent of the first or ground floor be devoted to these ancillary residential uses (not counting the area of parking garages).

(5) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features, as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(6) The maximum residential density shall not exceed seventeen (17) units per acre.

(7) Development shall not exceed eighty-five (85%) percent impervious coverage in this district.

(8) Building heights shall not exceed the height limits imposed by the Maximum Height Map. For those properties within the geographic areas shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height shall be forty-two and a half (42.5) feet; for those properties shown with a four story maximum height, the maximum building height shall be fifty-five (55) feet; for those properties shown with a five story maximum height, the maximum building height shall be sixty-five (65) feet; and for the properties shown permitting up to eight stories, the maximum height shall be ninety-five (95) feet. Unless specifically approved by the City Commission as a conditional use, properties with buildings developed with less than the maximum building stories shall conform to the maximum height for the applicable stories. For example, if a two story building is developed within an area permitting a four story building, the two story building shall conform to the thirty (30) foot height limit. Parking garage levels shall be counted as stories for each level except for any basement level or the open roof level.

(9) Parapet walls or mansard roofs functioning as parapet walls may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers and related non-occupied structures may be permitted to extend up to ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other



architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis; encompassing no more than thirty (30%) percent of the building roof length, up to eight (8) feet of additional height upon approval of the City Commission, based on a finding that said features are compatible with adjacent properties.

(10) For properties not shown on the Maximum Height Map, located adjacent to four lane roads, the maximum height shall not exceed fifty-five (55) feet, and the maximum height shall not exceed forty-two and a half (42.5) feet, for properties located adjacent to two lane roadways. For corner properties adjacent to both four lane and two lane roadways the maximum height shall be fifty-five (55) feet.

(11) Terracing and articulation providing additional setbacks are required to create relief to the overall massing of the building facades. Such design features of building façade articulation are required at least every sixty (60) feet on average along the primary building façades facing streets or the building frontage where the building fronts its primary parking lot area. For any building over two stories in height and over 200 feet in length, there shall be a thirty-five (35) foot break on at least the first floor, the design of which shall be a component of the architectural review process required for conditional use. For any building over two stories in height, a significant portion of the top floor shall be terraced and stepped back from the exterior face of the next lower floor by an average of at least five (5) feet. Parking structures are exempt from this terracing requirement.

(12) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood), shall be provided along the entire common line. The wall or fence shall be six feet in height; except that such wall or fence shall be only three feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(13) The maximum impervious coverage shall be eighty-five (85%) percent of any property.

(14) Any above grade parking garages or decks constructed within this district must be at least one hundred (100) feet away from any property used for single family or low density residential.

(15) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

(f) *Shopping center parking requirements.* It is the intent of the city to require shopping centers to provide adequate parking for the businesses within a shopping center but at the same time avoid the proliferation or overbuilding of parking for shopping centers which is prevalent throughout most of the nation. The parking requirements of this zoning code, as with most other cities, is based on providing adequate parking for customers at a single destination. In shopping centers where customers often have multiple destinations this often leads to an overbuilding of parking. As a result, this district establishes both minimum and maximum parking requirements as follows:

(1) Shopping centers shall meet and provide the minimum number of parking spaces required by this code, as a cumulative total of the individual businesses or tenant spaces, except as otherwise provided for by this section.

(2) In calculating the minimum parking standards, internal pedestrian mall areas, corridors that are in the shopping center common areas (as opposed to individual tenant spaces), and areas dedicated to mechanical, electrical or plumbing space that services shopping centers generally (as opposed to individual tenant spaces) within the shopping centers may be excluded from the area calculated in meeting the parking requirements. However, parking shall be provided for all tenant areas within these mall areas including freestanding retail booths, restaurant areas, food court areas, ticket sales, and other vending areas. Shopping centers shall not be required to provide parking for pedestrian mall areas that are utilized for special events such as antique car show, used book sales, art shows, antique shows, craft shows, etc.

(3) In calculating the minimum parking standards, this code shall allow for warehouse or storage areas within the major anchor stores and individual tenant spaces to be counted as a warehouse and storage use, provided these spaces are restricted to these uses and do not exceed ten percent of the gross leasable area.

(4) A percentage of the parking required by this code may be composed of grass or other pervious surfaces when that parking is deemed to be located where it will be utilized on an infrequent basis except for certain peak holiday shopping periods.

(5) To the extent various businesses have different times of usage during the day, the city commission may consider this mix of uses in establishing compliance with the minimum parking requirements of this section as part of the review and approval of building permit plans as specified in this district.

(g) *Minimum off-site accommodations for traffic.* Given that shopping centers are major traffic generators, these shopping centers, at the time of development, expansion or major redevelopment shall be required to address the off-site traffic generation and transportation impacts of the development proposed and adherence to the city's concurrency management regulations. The city shall require submission of transportation impact studies by independent transportation consulting firms to determine the scale and nature of the impacts and compensating or mitigating actions deemed appropriate. The city may require site related off-site traffic and transportation improvements as deemed necessary. Adherence to the city's concurrency management regulations may require financial contribution to the provision of transportation and transit service, including but not limited to, the cost of transit vehicles and operations and maintenance cost.

(h) *Minimum on-site accommodations for transit.*

(1) Given that shopping centers are the focal point for many transit users, these shopping centers at the time of development, expansion or major redevelopment shall be required to address on-site provisions for transit services or located off-site adjacent to the shopping center acceptable to the city that will accommodate and encourage the use of mass transit. The city shall require that appropriate provisions be made to accommodate these transit needs including, but not limited to, transit vehicle parking and transfer areas, transit benches and shelters, transit signage, etc.; provided, however, the transit facilities shall be appropriately located at site plan review so as not to interfere with pedestrian or automobile access to the shopping center.

(2) Shopping centers shall also be required to accommodate alternate modes of transportation such as bicycles, by providing accommodations including bicycle racks and/or storage shelters.

(i) *Urban design guidelines and standards.* The city commission may adopt and impose urban design and architectural guidelines and standards upon the development or redevelopment of shopping centers as necessary to accomplish the goals and objectives of this article.

(j) *Morse Boulevard design guidelines.*

(1) The Morse Boulevard designated area is defined as those properties fronting Morse Boulevard between New York Avenue and Denning Drive and additionally the properties in the blocks bounded by Morse Boulevard, Denning Drive, Canton Avenue and Harper Street.

(2) In addition to the other requirements and regulations of the C-1 zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building or building exterior facade fronting on a street within the Morse Boulevard designated area, an applicant is required to obtain approval of the plans by the planning department,

(3) Building elevation drawings and other plans shall be submitted with sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building façade.

(5) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(6) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(7) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to the Morse Boulevard design guidelines and criteria adopted by the city commission.

(8) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation, with the final decision made by the city commission.

## **Sec. 58-75. Commercial (C-2) District.**

### *(a) Purpose and intent.*

(1) This commercial zoning district is limited to the commercial portion of the geographic downtown area known as the Central Business District and the similar commercial area of the city within the Hannibal Square Neighborhood Commercial District (HSNCD) of the City's Community Redevelopment Area (CRA). As detailed in the Comprehensive Plan, Commercial (C-2) district zoning is not permitted on any property except if it is within the Central Business District "potential C-2 zoning" area depicted in the CBD Map (D-2) in the definitions section, generally described as west of Knowles Avenue, south of Swoope Avenue, north of Comstock Avenue and east of and including the New York Avenue Corridor or it is on properties abutting Morse Blvd between Capen and Virginia Avenues, abutting New England Avenue between Pennsylvania and New York Avenues, abutting Pennsylvania Avenue between Garfield and Lyman Avenues, or abutting Hannibal Square, East. No applications for C-2 zoning shall be accepted for any property outside these designated areas. Moreover, even properties within these designated areas shall have no vested right to C-2 zoning. This district has different requirements than other commercial areas especially pertaining to setbacks, parking requirements, height limitations and permitted land uses. This district is established to encourage the continuation of the present unique Park Avenue business district of the city and to provide for its use within certain other defined geographical areas as specified in the Comprehensive Plan.

(2) The regulations outlined in this district encourage the continuation of the present aesthetically pleasing central business district, provide areas for the concentration of compatible land uses, and provide for appropriate commercial, restaurant and residential uses which will strengthen the city's economic base.

(3) For purposes of this section, the Park Avenue Corridor is that area which encompasses those properties having frontage on Park Avenue or having frontage on the intersecting streets within 140 feet of Park Avenue.

*(b) Permitted uses.* All permitted uses shall be conducted so as to emphasize the pedestrian orientation of the district. Thus, drive-in type businesses or uses which have a drive-in component as part of their operation shall not be permitted except to a limited degree in the area on Morse Boulevard, west of Virginia Avenue and confined to non-retail use. All uses permitted shall be conducted exclusively within a building except those uses permitted which are customarily conducted in the open such as off-street parking and out-door patio seating for dining. Storage shall be limited to accessory storage of commodities sold at retail on the premises and storage shall be within a completely enclosed building. Bars, taverns and cocktail lounges are prohibited in this zoning district.

(1) Retail businesses involved in the sale of merchandise on the premises within enclosed buildings but excluding resale establishments or pawn shops (other than clothing resale stores). Liquor stores, provided the store is more than 300 feet from residentially used properties.

(2) Personal services limited to hotels, and shoe/watch repair businesses; but excluding places of amusement such as game rooms, video or internet arcades, tattoo, body art or fortune telling businesses and the like.

(3) Bank, savings and loans, financial institutions, travel agencies, photographic studios, interior design studios, barber shops, beauty/nail salons, spas, state licensed massage

therapists, cosmetic treatments businesses, governmental, educational, medical, real estate and other offices but only when such uses are located above the ground floor within the Park Avenue Corridor or located on any floor outside the Park Avenue Corridor. This shall be referred to as the Park Avenue corridor vertical zoning restrictions.

(4) Residences located on any floor outside of the Park Avenue Corridor or above the ground floor within the Park Avenue Corridor.

(5) Public and semi-private facilities such as museums, lodges, libraries and the like.

(6) Fine dining restaurants, as well as ice cream, tea, coffee, cheese, pastry and bakery stores with retail sales and consumption of food and beverage products on premises.

(7) Churches, non-profit organizations' halls/lodges and schools less than 5,000 square feet in size. (See parking requirements for limitations).

(c) *Conditional uses.* The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this C-2 district section only. See Sec. 58-90 Conditional Uses.

(1) Restaurants, with the exception of fine dining restaurants, ice cream, tea, coffee, cheese, pastry and bakery shops, with retail sales and consumption on premises;

(2) Churches, non-profit organizations' halls/lodges, and schools 5,000 square feet or larger in size. (See parking requirements for limitations).

(3) Buildings with a third floor and up to forty (40) feet in height, which requires the affirmative votes of four (4) city commissioners to be approved as a conditional use;

(4) Retail stores in excess of 6,000 square feet per floor;

(5) Drive-in business components limited to the locations to properties on Morse Boulevard, west of Virginia Avenue and limited to non-retail use.

(6) Buildings over 10,000 square feet, any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.

(d) *Minimum building lot size.*

There shall be no minimum lot size in this district.

(e) *Development standards.*

(1) On all streets, buildings and structures shall be built to a zero foot building setback from the property line or such front setback as is established by the average front setback of the existing buildings on that block of street frontage, whichever is greater. However, canopies may extend over the sidewalks provided a clearance of nine feet zero inches is maintained from the sidewalk to the bottom portion of the canopy.

(2) Building heights shall not exceed the height limits imposed by the Maximum Height Map. For those properties within the geographic areas shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height may be up to forty (40) feet if approved via conditional use. Variances for more than three stories in the Central Business District are prohibited. Parapet walls, mansard, gable or hip roof appendages or similar architectural elements or appendages on a one or two story building may be added to the building height but in no case shall extend more than five (5) feet above the building roof height limitations established in the section. Mechanical equipment, elevator towers and related non-occupied structures may be added to the building roof height but in no case shall exceed more than ten (10) feet above these building roof height limitations and shall be located to the maximum extent possible so that they are not visible from the street.

(3) Buildings shall be setback no less than ten (10) feet from the rear lot line.

(4) No side yard setbacks shall be required on interior side property lines.

(5) The maximum floor area ratio for any building shall be two hundred (200%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage.

(6) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(7) The maximum residential density shall not exceed seventeen (17) units per acre.

(8) Terracing and articulation requiring additional setbacks are required to create relief to the overall massing of the building facades. Such design features of building façade articulation are required at least every sixty (60) feet on average along the primary building façades facing the streets, or along the building frontage where the building fronts the primary parking lot area. For any building over two stories in height and over 200 feet in length, there shall be a thirty-five (35) foot break on at least the first floor, the design of which shall be a component of the architectural review process required for conditional use. For any building over two stories or thirty (30) feet in height, a significant portion of the top floor shall be terraced and stepped back from the exterior face of the next lower floor. Parking structures are exempt from this terracing requirement.

(9) Any above grade parking garages or decks constructed within this district must be at least one hundred (100) feet away from any property used for single family or low density residential.

(10) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9

Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

(f) *Nonconforming uses.*

(1) Notwithstanding the provisions for nonconforming uses elsewhere in this article, those properties which are nonconforming uses with respect to the Park Avenue Corridor vertical zoning restrictions shall be permitted to change occupancy or tenancy to a similar nonconforming use provided the existing use on the premises is not discontinued for a period of three (3) months or more.

(2) Notwithstanding the provisions for these nonconforming uses elsewhere in this article, those properties which are nonconforming uses with respect to the Park Avenue Corridor, vertical zoning restrictions, shall be allowed to relocate and exchange locations with an existing permitted use provided the square footage and frontage remains the same or less and provided the original nonconforming use space is converted and committed to use as a permitted use and provided such a relocation and exchange is approved by the city commission.

(g) *Park Avenue Corridor Vertical zoning restrictions special circumstances.* In certain instances, there may exist buildings or tenant spaces that are within the Park Avenue Corridor vertical zoning restrictions which present special circumstances which mitigate against prohibiting ground floor businesses, such as offices, beauty/barber salon, spas, cosmetic treatments businesses. These building areas may receive a special exception from the Park Avenue Corridor vertical zoning restrictions. In addition to the criteria previously detailed in that section, the following additional factors must be satisfied. The use must occupy floor space which fronts on a side or rear street other than Park Avenue or consist of an interior space fronting on an adjoining pedestrian arcade which does not front on Park Avenue. The area must either be an independent structure or not exceed twenty-five (25%) percent of the ground floor area of all existing tenant space within the building involved. The area must not be visible from Park Avenue or should be remote from visibility if located on a side street. The area must not inhibit the predominately retail character of the immediately surrounding area of the Central Business District.

(h) *Restaurants.* The following standards and criteria shall apply:

(1) The city has established that all existing and proposed restaurants except fine dining restaurants, ice cream, tea, coffee, cheese, pastry and bakery stores, with retail sales and consumption on premises, are conditional uses in this zoning district. For those restaurants that are conditional uses, renovations, changes in decor, floor plan, menu or operating hours up to midnight are not deemed to be significant changes which require amendment of the conditional use permit. Changes which result in the addition of building area, seating or operating hours beyond midnight are deemed to be significant changes which require amendment/approval of a conditional use.

(2) In order for these restaurant conditional use restrictions to be effectively applied, this article contains strict definitions of fine dining restaurants, restaurants requiring conditional use approval, and cocktail lounges, taverns and bars, which are prohibited uses. Generally, if there is consumption of either food or alcoholic beverages on the premises, then the conditional use requirement applies, with the exceptions of the permitted uses shown in section b(6). If the business is solely for food or alcoholic beverage sale for consumption off the premises, then conditional use approval is not required. With food stores or convenience stores where the



primary business is the retail sale of food and beverages for consumption off premises, or when prepared sandwiches or other food is clearly incidental to the principal retail activity, then limited consumption on premises (up to 12 seats) inside the premises is permitted without conditional use approval. Otherwise, if a restaurant does not fit under one of the permitted uses in b(6), then conditional use approval is required.

(3) Among the issues reviewed for conditional uses in this district, the adequacy of parking is often the most contentious. A frequent proposition is that the type of business, its menu, its hours or its size will cater exclusively to pedestrian traffic from employees and visitors already in the downtown. In light of the ability for the nature of the business to change, this proposition is not agreed to be an acceptable argument for the inadequacy of private parking.

(4) In the review of these conditional uses, there are determined to be certain types of businesses where conditional use approval is not required. One type is the ice cream, frozen yogurt, Italian ice, cookie or other business selling solely dessert items and accompanying beverages. These businesses have been determined not to be destination oriented, such that they generate parking demand in the downtown during the peak lunch period.

(5) The hours and types of amplified musical entertainment permitted within restaurants shall be governed by the noise regulations within Chapter 10 of the Code of Ordinances.

(i) *Standards and criteria for conditional uses.*

(1) *General.* These standards are in addition to the standards set forth in Section 58.90. Each application for a conditional use shall be accompanied by a site plan, drawn to scale, showing the location and area of the building with respect to the adjacent building including all driveways, sidewalks and off-street parking spaces. The site plan submittal shall also include floor plan(s) depicting the area intended to be devoted to customer use, employee use, and storage needs. Upon approval of any application, said site and floor plan and accompanying data plus any conditions imposed by the city commission shall become part of the conditional use permit. It may be amended only by the city commission after receipt of a recommendation from the planning and zoning commission. A conditional use permit may be issued after a hearing based on the following criteria:

- a. The proposed use is in keeping with the character of the Central Business District or CRA area as a distinctive retail and restaurant district of individual specialty stores and fine dining restaurants ;
- b. The proposed use will not negatively affect the aesthetic character of the area nor create or significantly increase vehicle and pedestrian conflicts;
- c. The proposed use will not cause traffic congestion due to vehicles obstructing the public streets while waiting to use any facility, or in any manner obstruct traffic;
- d. The proposed use provides a degree of private off-street parking that is in keeping with its peak and normal demand for parking.

(2) *Three-story buildings.* In addition to the other conditional use criteria specified for conditional uses within this district, the following standards and criteria shall also apply and be satisfied for such approvals:

- a. The proposed building, building addition or tenant space shall have an exterior architectural style and appearance that complies with the criteria established within the facade design



guidelines adopted as part of this district. Furthermore, the building, building addition or tenant space shall be designed to be consistent with the architectural style of the existing building.

b. The proposed building, building addition or tenant space shall comply with the parking requirements as required for new building space as specified in this code.

c. Four votes of the City Commission shall be required for approval.

(j) *Hannibal Square Neighborhood Commercial District.*

(1) The Hannibal Square Neighborhood Commercial District (HSNCD) area shall be restricted to the following areas:

- a. Properties abutting Morse Boulevard between Capen Avenue and Virginia Avenue;
- b. Properties abutting New England Avenue between Pennsylvania and New York Avenues;
- c. Properties abutting Pennsylvania Avenue between Lyman and Garfield Avenues, including those existing commercial properties just north of Garfield Avenue; and
- d. Properties abutting Hannibal Square East.

(2) In order to implement the comprehensive plan and the community redevelopment area (CRA) plan, there are established special provisions for the development of buildings and other improvements in this area which shall take precedence over other provisions of this article.

(3) In this HSNCD area, third floors shall be restricted and limited to residential use only and a deed restriction to that effect, enforceable by the City, shall be required as a condition of obtaining a building permit for the construction of a third floor.

(4) Building heights on the north end of Pennsylvania Avenue shall be two stories maximum when transitioning to residential.

(5) Development approvals must ensure that compatible land use relationships occur, particularly between land uses within perimeter areas of the HSNCD and areas 500 feet outside this area so as to protect the surrounding residential areas and local churches and other non-profit organizations from incompatible uses.

(6) In the HSNCD area, all new buildings and building additions over 250 square feet shall require site and building plan approval by the city commission at a public hearing. Prior to that hearing, the planning and zoning commission shall also review such site and building plans at a public hearing and shall provide their recommendation.

(k) *Central business district area facade review.*

(1) In addition to the other requirements and regulations of the C-2 zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building exterior facade, an approval by the planning department for the building facade construction, renovation or remodeling is required.

(2) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building façade.

(3) Building elevation drawings and other plans shall be submitted with sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten (10) working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(5) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(6) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to design guidelines and criteria adopted by the city commission.

(7) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.

(l) *Morse Boulevard design guidelines.*

(1) The Morse Boulevard designated area is defined as those properties fronting Morse Boulevard between New York Avenue and Denning Drive and additionally the properties in the blocks bounded by Morse Boulevard, Denning Drive, Canton Avenue and Harper Street.

(2) In addition to the other requirements and regulations of the C-2 zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building or building exterior facade fronting on a street within the Morse Boulevard designated area, an applicant is required to obtain approval of the plans by the planning department.

(3) Building elevation drawings and other plans shall be submitted of sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building façade.

(5) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(6) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(7) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to the Morse Boulevard design guidelines and criteria adopted by the city commission.

(8) The decision of the planning and zoning commission shall be the final decision of the City except, where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.

## **Sec. 58-76. Commercial (C-3) District.**

### *(a) Purpose and intent.*

(1) Certain areas of the city along arterial and collector roadways have developed and are being redeveloped as highway-oriented commercial areas. The purpose of this district is to provide areas for this type of use and to provide regulations which enhance the convenience of use of these buildings as well as contribute to the attractiveness of the City and minimize any possible adverse effect on the entire community.

(2) Uses permitted within this district shall include highway-oriented retail commercial establishments and personal and professional services. Regulations will include requirements for sufficient off-street parking, attractive parking areas and control over the ingress and egress points.

*(b) Permitted uses.* All business uses and activities shall be conducted exclusively and wholly within an enclosed building except those uses permitted which are customarily conducted in the open such as off-street parking, plant and landscape garden sales and outdoor patio dining. Storage shall be limited to accessory storage of commodities sold at retail on the premises and storage shall be within a completely enclosed building. Some minimal display of bulk merchandise for sale within the business may be permitted outside and adjacent to an enclosed building but only if under a permanent covered building canopy but not to include vending machines.

(1) Retail businesses involving the sale of merchandise on the premises within enclosed buildings and excluding resale establishments or pawn shops (other than clothing resale stores). Liquor stores, provided the store is more than 300 feet from external residentially used properties. Convenience stores (unless in conjunction with fuel sales). The retail sale of motorized scooters (not motorcycles) is permitted except that only one scooter may be displayed outside the building within two feet of the building façade, and absolutely no scooter display is permitted in the area designated on the site plan for parking.

(2) Establishments involved in the rendering of a personal or business service including banks or similar financial institutions, barber shops, beauty or nail salons, spas, cosmetic treatments, car rental agencies, dry cleaning establishments, hotel or motels, laundries, post office, theaters, travel agencies, and restaurants, bars, taverns, cocktail lounges (provided that if these establishments are serving alcoholic beverages for consumption on the premises, they are located more than 300 feet from residential properties) but specifically excluding tattoo, body art or fortune telling businesses.

(3) Funeral homes or mortuaries without incinerators;

(4) Business, financial, governmental, medical and professional offices, agencies and clinics;

(5) Off-street parking lot except not involving the parking or storage of construction equipment, trucks, drill rigs, etc.

(6) Permanent recreational facilities within enclosed soundproof buildings, but excluding adult video arcades and including both publicly and privately owned including lodges;

(7) Blueprinting, photocopying and printing offices;

(8) Animal hospitals, pet stores and other animal care businesses provided that there shall be no outside kennels, pens or runs, and there shall be no overnight boarding of animals unless the structure is located more than 250 feet from a residentially zoned parcel of land;

(9) Churches, non-profit organizations' halls/lodges, uses and schools less than 5,000 square feet in size (see parking requirements for limitations).

(10) Uses customarily incidental and accessory to the permitted uses, including the repair of goods of the types sold in stores are permitted. Such repair must be carried on within a completely enclosed building, may not be carried on as a separate business, and provided further that there shall be no manufacturing, assembling, compounding, processing or treatment of products, other than that which is clearly incidental and essential to the permitted uses.

(c) *Conditional uses.*

(1) The following uses may also be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this Article. See Sec. 58-90 Conditional Uses.

a. New and used motor vehicle, boat or trailer sales but per the policies of the Comprehensive Plan restricted and limited to locations north of Webster Avenue, west of Denning Drive and east of Bennett Avenue and locations on the west side of Wymore Road, north of Lee Road.

b. Cemetery monument sales but excluding outdoor display.

c. Public utility substations or sub-installations.

d. Convenience stores or service station operations selling retail gasoline/diesel and other petroleum products along a variety of retail products with or without the service/repair of vehicles;

e. Businesses involving the repair and servicing of motor vehicles or boats.

f. Automatic car washes, paint and body shops.

g. Retail and/or wholesale automobile part sales.

h. Office/showroom/warehouse use.

i. Drive-in components of any business.

j. Restaurants, bars, taverns, cocktail lounges providing alcoholic beverages for consumption on the premises and liquor stores when located within 300 feet of residential properties.

k. Buildings over 10,000 square feet, or any addition over 250 square feet to an existing building over 10,000 square feet, or additions to existing buildings that result in a building over 10,000 square feet in size.

l. Any conditional use provided in the R-3 or R-4 districts, however said use is limited to the site and improvement regulations of this district.

m. Any building with residential units as a component of the building. However, time shares are not permitted.

n. Churches, community clubs, non-profit organizations' halls/lodges, and schools 5,000 square feet or larger in size. (See parking requirements for limitations).

o. Buildings with a third floor within the Central Business District up to forty (40) feet in height; requires the affirmative votes of four (4) city commissioners to be approved;

(d) *Minimum building site.* There shall be no minimum lot size area however the lot must have a minimum frontage of fifty (50) feet on a major arterial street

(e) *Development standards.*

(1) Any building constructed within this district shall adhere to the following minimum or required setbacks for front, rear and side yards. The front setback to all streets shall be a minimum of ten (10) feet from the property line and a minimum of fifteen (15) feet on Orlando Avenue and on the north side of Fairbanks Avenue and twenty (20) feet on the south side of Fairbanks Avenue. For properties along Orange Avenue, the front setback may be reduced to the average front setback of the existing buildings within that block if approved by the City Commission. Side yard setbacks shall be a minimum of five (5) feet from each property line unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. The rear setback shall be a minimum of thirty (30) feet from the property line unless the rear yard abuts a residentially parcel, then a thirty-five (35) foot setback shall be observed. However, within the Hannibal Square Neighborhood Commercial District area, as set forth in this section, new buildings shall have a required ten (10) foot front setback and may be permitted zero-foot side setbacks unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. For any required front setback, the distance may be increased upon the determination by the public works director and police chief that a traffic sight distance safety problem may exist, to the extent required to remedy the problem.

(2) If a person constructing a building within this district desires to combine the minimum side yard setbacks and provide them on only one side of the lot, a site plan showing the locations of the proposed building as well as the location of existing adjacent building must be submitted to the planning and zoning commission for approval prior to the issuance to a building permit to ensure sufficient compatibility with adjacent properties. This reduction to the required side setback however, shall not be permitted if adjacent to a residentially zoned parcel.

(3) The maximum floor area ratio and building lot coverage shall be forty-five (45%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The forty-five (45%) percent floor area ratio and building lot coverage may be increased by an additional five (5%) percent if the parking for the increased five (5%) percent floor area ratio is located entirely underground beneath the building's footprint or if the building's upper floor(s) are cantilevered over such parking or if it is for a hotel building.

(4) Exclusively residential buildings are not permitted. Residential units are not permitted on the first or ground floor. When residential units are included on the second floor or above, the floor area ratio of the project may be up to sixty (60%) percent FAR. Limited residential use of the first or ground floor of such buildings may be permitted when such space is limited to the functions of entrance lobby/elevator/stair access, leasing or management office or residential amenity spaces such as health/fitness, meeting/activity room or storage. However, in no case

shall more than fifteen (15%) percent of first or ground floor be devoted to these ancillary residential uses (not counting the area of parking garages).

(5) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(6) The maximum residential density shall not exceed seventeen (17) units per acre.

(7) Building heights shall not exceed the height limits imposed by the Maximum Height Map. For those properties shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height shall be forty-two and a half (42.5) feet, unless located within the Central Business District where the maximum height for three stories shall be forty (40) feet if approved as a conditional use. Variances for more than three stories in the Central Business District are prohibited. For those properties shown with a four story maximum height, the maximum building height shall be fifty-five (55) feet; for those properties shown with a five story maximum height, the maximum building height shall be sixty-five (65) feet and for the properties shown permitting up to eight stories, the maximum height shall be ninety-five (95) feet. Unless specifically approved by the City Commission as a conditional use, buildings developed with less than the maximum building stories shall conform to the maximum height for the applicable stories. For example, if a two story building is developed within an area permitting a four story building, the two story building shall conform to the thirty (30) foot height limit. Parking garage levels shall be counted as stories for each level except for any basement level or the open roof level.

(8) Parapet walls, or mansard roofs functioning as parapet walls, may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers and related non-occupied structures may be permitted to extend up to ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis, encompassing no more than thirty (30) feet of the building roof length and area, up to eight (8) feet of additional height, upon approval of the City Commission, based on a finding that said features are compatible with adjacent projects.

(9) For properties not shown on the Maximum Height Map, located adjacent to four lane roadways, the maximum height shall not exceed fifty-five (55) feet, and the maximum height shall not exceed forty-two and a half (42.5) feet for properties located adjacent to two lane roadways. For corner properties adjacent to both four lane and two lane roadways, the maximum height shall be fifty-five (55) feet.

(10) Terracing and articulation providing additional setbacks are required to create relief to the overall massing of the building facades. Such design features of building façade articulation are required at least every sixty (60) feet on average along the primary building façades facing streets, or the building frontage where the building fronts primary parking lot area. For any

building over two stories in height and over 200 feet in length, there shall be a thirty-five (35) foot break on at least the first floor, the design of which shall be a component of the architectural review process required for conditional use. For any building over two stories or 30 feet in height, a significant portion, comprising at least seventy-five (75%) of the top floor, shall be terraced and stepped back from the exterior face of the next lower floor by an average of at least five (5) feet. Parking structures are exempt from this terracing requirement.

(11) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(12) Development shall not exceed eighty-five (85%) percent impervious coverage in this district.

(13) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

g) *Hannibal Square Neighborhood Commercial District.*

(1) The Hannibal Square Neighborhood Commercial District (HSNCD) area in this context shall be restricted to the following areas:

- a. Properties abutting Morse Boulevard between Capen Avenue and Virginia Avenue;
- b. Properties abutting New England Avenue between Pennsylvania and New York Avenues;
- c. Properties abutting Pennsylvania Avenue between Lyman and Garfield Avenues, including those existing commercial properties just north of Garfield Avenue; and
- d. Properties abutting Hannibal Square East

(2) In order to implement the comprehensive plan and the community redevelopment area (CRA) plan, there are established special provisions for the development of buildings and other improvements in this area which shall take precedence over other provisions of this article as henceforth specified.

(3) In this HSNCD area, third floors shall be restricted and limited to residential use only and a deed restriction, to that effect, enforceable by the City, shall be required to be recorded as a condition of obtaining a building permit for the construction of a third floor. Building heights on the north end of Pennsylvania Avenue shall be two stories maximum when transitioning to residential. Development approvals must ensure that compatible land use relationships occur, particularly between land uses within perimeter areas of the HSNCD and areas 500 feet outside this area so as to protect the surrounding residential areas; local churches and non-profit organizations.

(4) In this HSNCD area, all new buildings and building additions over 250 square feet shall require site and building plan approval by the city commission at a public hearing. Prior to that hearing, the planning and zoning commission shall also review such site and building plans at a public hearing and shall provide their recommendation.



(5) In addition to the code parameters outlined above, the portion of the HSNCD and CRA District comprising properties that front on New England Avenue between Virginia and New York Avenues may be developed with enhanced density and intensity. Notwithstanding the limitations otherwise imposed by this C-3 district, for any lots fronting on New England Avenue from Virginia to New York Avenues, development may be permitted with enhanced density and intensity up to a maximum 100% floor area ratio (FAR) provided the following development standards are complied with:

- a. No parking garages would be permitted.
- b. The street front building setback shall be 10 feet.
- c. The redevelopment plans would require rear alley access out to Virginia Drive or provisions shall be made for that rear alley access to be phased in over time as the properties individually redevelop.
- d. The maximum building width along New England Avenue shall be 125 feet before a 15 foot separation is required to break up the mass and create a separate building.
- e. The redevelopment plans on the north and south side of New England Avenue require a 50 foot rear setback from the center lot line of the block as a buffer protection to adjacent residential properties. The 50 feet also provides room for parking along the alley as outlined above.
- f. There shall be a one foot setback for each one foot of floor height for any third floor and building corner visibility setbacks as deemed necessary.

(h) *Central Business District area facade review.*

(1) In addition to the other requirements and regulations of the C-3 zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building exterior facade fronting on a street within the central business district, an applicant is required to obtain approval of the plans by the planning department.

(2) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building facade.

(3) Building elevation drawings and other plans shall be submitted with sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten (10) working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(5) The planning department's decision shall be either an approval, an approval with conditions or a denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(6) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to design guidelines and criteria adopted by the city commission.

(7) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation, with the final decision made by the city commission.

(i) *Morse Boulevard design guidelines.*

(1) The Morse Boulevard designated area is defined as those properties fronting Morse Boulevard between New York Avenue and Denning Drive and additionally the properties in the blocks bounded by Morse Boulevard, Denning Drive, Canton Avenue and Harper Street.

(2) In addition to the other requirements and regulations of the C-3 zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building or building exterior facade fronting on a street within the Morse Boulevard designated area, an applicant is required to obtain approval by the planning department.

(3) Building elevation drawings and other plans shall be submitted of sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building façade.

(5) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(6) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(7) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to the Morse Boulevard design guidelines and criteria adopted by the city commission.

(8) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.

## **Sec. 58-77. Commercial (C-3A) District.**

(a) *Purpose and intent.* Certain areas of the city that are close to residential areas are commercially zoned so as to meet the retail and service needs of the neighboring area. These neighborhood commercial areas have smaller market areas with businesses that predominantly cater to the needs of the immediate area, versus depending upon the trade area of the entire community or larger area. As such, the types of businesses and the sizes of buildings permitted within this commercial zone must be sensitive to the adjacent residential environment, and thus exclude those uses and building sizes which can negatively impact the surrounding residential area with traffic generation, parking, deliveries, noise and such.

(b) *Permitted uses.* All business uses and activities shall be conducted exclusively and wholly within an enclosed building except those uses permitted which are customarily conducted in the open such as off-street parking, plant and landscape garden sales and outdoor patio dining. Storage shall be limited to accessory storage of commodities sold at retail on the premises and storage shall be within a completely enclosed building. Some minimal display of bulk merchandise for sale within the business may be permitted outside and adjacent to an enclosed building but only if under a permanent covered building canopy but not to include vending machines.

(1) Retail businesses involving the sale of merchandise on the premises within enclosed buildings and excluding resale items (except for clothing) or pawn shops and liquor stores. Convenience stores but specifically excluding such stores that offer fuel sales.

(2) Establishments involved in the rendering of a personal or business service including banks or similar financial institutions, barber shops, beauty and nail salons, cosmetic treatments, day care/schools, dry cleaning establishments, theaters, and travel agencies. Tattoo, body art or fortune telling businesses are prohibited.

(3) Funeral homes or mortuaries without incinerators;

(4) Business, financial, governmental, medical and professional offices, agencies and clinics;

(5) Off-street parking lot except not involving the parking or storage of construction equipment, trucks, drill rigs, etc. or for use by truck/van rental companies;

(6) Permanent recreational facilities within enclosed soundproof buildings but excluding adult video arcades.

(7) Blueprinting, photocopying and printing offices;

(8) Uses customarily incidental and accessory to the permitted uses, including the repair of goods of the types sold in stores, permitted. Such repair must be carried on within a completely enclosed building, may not be carried on as a separate business, and provided further that there shall be no manufacturing, assembling, compounding, processing or treatment of products, other than that which is clearly incidental and essential to the permitted uses.

(9) Churches, non-profit organizations' halls/lodges and schools less than 5,000 square feet in size (see parking requirements for limitations).

(c) *Conditional uses.* The following uses may also be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90 Conditional Uses.

(1) Restaurants, but excluding bars, taverns, cocktail lounges and liquor package stores

(2) Office/showroom/warehouse use;

(3) Drive-in components of any business;

(4) Buildings over 10,000 square feet or any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.

(5) Any conditional use provided in the R-3 or R-4 districts if limited to the site and improvement regulations of this district.

(6) Any building with residential units as a component of the building. However, time shares are not permitted.

(7) Churches, non-profit organizations' halls/lodges, and schools 5,000 square feet or larger in size. (See parking requirements for limitations).

(d) *Minimum building site.* There shall be no minimum lot area; however, the lot must have a minimum frontage of 50 feet on a street.

(e) *Development standards.*

(1) Any building constructed within this district shall adhere to the following minimum or required setbacks for front, rear and side yards. The front setback from all streets shall be a minimum of ten (10) feet from the property line. Side yard setbacks shall be a minimum of five (5) feet from each property line unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. The rear setback shall be a minimum of thirty (30) feet from the property line. However, within the Hannibal Square Neighborhood Commercial District, as set forth in this section, new buildings shall have a required ten (10) foot front setback and may be permitted zero-foot side setbacks unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. For any required front setback, the distance may be increased upon the determination by the public works director and police chief that a traffic sight distance safety problem may exist to the extent necessary to correct the problem.

(2) If a person constructing a building within this district desires to combine the minimum side yard setbacks and provide them on only one side of the lot, a site plan showing the locations of the proposed building as well as the location of existing adjacent building must be submitted to the planning and zoning commission for approval prior to the issuance to a building permit to ensure sufficient compatibility with adjacent properties. This reduction to the required side setback however, shall not be permitted if adjacent to a residentially zoned parcel.

(3) The maximum floor area ratio and building lot coverage shall be forty-five (45%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The forty-five (45%) percent floor area ratio and building lot coverage may be

increased by an additional five (5%) percent if the parking for the increased five (5%) percent floor area ratio is located entirely underground beneath the building's footprint or if the building's upper floor(s) are cantilevered over such parking.

(4) Exclusively residential buildings are not permitted. Residential units are not permitted on the first or ground floor. When residential units are included on the second floor or above, the floor area ratio of the project may be up to sixty (60%) percent FAR, but the maximum floor space that can be devoted to non-residential (office) uses is forty-five (45%) percent floor area ratio. Limited residential use of the first or ground floor of such buildings may be permitted when limited to the functions of entrance lobby/elevator/stair access, leasing or management office or residential amenity spaces such as health/fitness, meeting/activity room or storage. However, in no case shall more than fifteen (15%) percent of the first or ground floor be devoted to these ancillary residential uses (not counting the area of parking garages).

(5) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(6) The maximum residential density shall not exceed seventeen (17) units per acre.

(7) Building heights (in stories) shall not exceed two (2) stories, and shall not exceed a thirty (30) foot height limit.

(8) Parapet walls or mansard roofs functioning as parapet walls may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers and related non-occupied structures may be permitted to extend up to ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis, encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet of additional height, upon approval of the City Commission, based on finding that said features are compatible with adjacent projects.

(9) Terracing and articulation requiring additional setbacks are required to create relief to the overall massing of the building facades. Such design features of building façade articulation are required at least every sixty (60) feet on average along the primary building facades facing streets or the building frontage onto its primary parking lot area.

(10) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(11) The maximum impervious coverage shall be eighty-five (85%) percent of any property.

(12) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

g) *Hannibal Square Neighborhood Commercial District.*

(1) The Hannibal Square Neighborhood Commercial District (HSNCD) area in this context shall be restricted to the following areas:

- a. Properties abutting Morse Boulevard between Capen Avenue and Virginia Avenue;
- b. Properties abutting New England Avenue between Pennsylvania and New York Avenues;
- c. Properties abutting Pennsylvania Avenue between Lyman and Garfield Avenues, including those existing commercial properties just north of Garfield Avenue; and
- d. Properties abutting Hannibal Square East.

(2) In order to implement the comprehensive plan and the community redevelopment area (CRA) plan, there are established special provisions for the development of buildings and other improvements in this area which shall take precedence over other provisions of this article as henceforth specified.

(3) In this HSNCD area, a third floor shall be restricted and limited to residential use only and a deed restriction to that effect, enforceable by the City, shall be required as a condition of obtaining a building permit for the construction of a third floor

(4) Building heights on the north end of Pennsylvania Avenue shall be two stories maximum when transitioning to residential.

(5) Development approvals must ensure that compatible land use relationships occur, particularly between land uses within perimeter areas of the HSNCD and areas 500 feet outside this area so as to protect the surrounding residential areas and institutional uses.

(6) In this HSNCD area, all new buildings and building additions over 250 square feet shall require site and building plan approval by the city commission at a public hearing. Prior to that hearing, the planning and zoning commission shall also review such site and building plans at a public hearing and shall provide their recommendation.

(7) Notwithstanding the limitations otherwise imposed by this C-3A district, for any lots fronting on New England Avenue from Virginia to New York Avenues, development may be permitted with enhanced density and intensity up to a maximum 100% floor area ratio (FAR), provided the following development standards are complied with:

- a. No parking garages would be permitted.
- b. The street front building setback shall be 10 feet.
- c. The redevelopment plans would require rear alley access out to Virginia Drive or provisions shall be made for that rear alley access to be phased in over time as the properties individually redevelop.

- d. The maximum building width along New England Avenue shall be 125 feet before a 15 foot separation is required to break up the mass and create a separate building.
- e. The redevelopment plans on the north and south side of New England Avenue require a 50 foot rear setback from the center lot line of the block as a buffer protection to adjacent residential properties. The 50 feet also provides room for parking along the alley as outlined above.
- f. There shall be a one foot setback for each one foot of floor height for any third floor and building corner visibility setbacks as deemed necessary.

(k) *Central business district area facade review.*

(1) In addition to the other requirements and regulations of the C-3A zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building exterior facade fronting on a street within the central business district, an applicant is required to obtain approval of the plans by the planning department.

(2) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building facade.

(3) Building elevation drawings and other plans shall be submitted with sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten (10) working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(5) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(6) Decisions by the planning department and/or the planning and zoning commission shall be made based on to the conformance of plans and application materials to design guidelines and criteria adopted by the city commission.

(7) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.

(g) *Morse Boulevard design guidelines.*

(1) The Morse Boulevard designated area is defined as those properties fronting Morse Boulevard between New York Avenue and Denning Drive and additionally the properties in the blocks bounded by Morse Boulevard, Denning Drive, Canton Avenue and Harper Street.

(2) In addition to the other requirements and regulations of the C-3A zoning district and prior to the issuance of a building permit for the construction, renovation or remodeling of any building or building exterior facade fronting on a street within the Morse Boulevard designated area, an applicant is required to obtain approval of the plans by the planning department.

(3) Building elevation drawings and other plans shall be submitted of sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building façade.

(5) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten (10) working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(6) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(7) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to the Morse Boulevard design guidelines and criteria adopted by the city commission.

(8) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.



## **Sec. 58-78. Limited Industrial and Warehouse (I-1) District.**

### *(a) Purpose and intent.*

(1) The city, although primarily a residential community, has certain areas which are undesirable for residential development. Therefore, this limited industrial and warehouse district is established to permit light industrial-type uses which will not, in any way, detract from the residential desirability of the city and the surrounding area. This district may not be utilized or located within the Central Business District or the Hannibal Square Neighborhood Commercial District.

(2) The district's regulations impose restrictions on the type of industrial activities permitted, limitations and controls on the emission of fumes, odors, and noise, and provisions with regard to height and size of buildings, maximum site coverage, and landscaping. This is done in order to protect and foster the residential desirability of the city and at the same time to permit location of industries which will tend to improve the city's economic base close to a labor supply.

*(b) Permitted uses.* All uses of land located within this district must not be obnoxious by reason of sound, fumes, repulsive odors and the like whether the same constitutes an actual nuisance or not, and the uses shall not, in any way, detract from the desirability of the city as a residential community. Permitted uses include:

(1) Warehouses and wholesale distribution of goods, wares, merchandise, articles, or substances, except those which are combustible, inflammable, explosive or likely to create fire, radiation, or explosive hazards to surrounding property;

(2) Administrative or executive offices of a business or industrial establishment;

(3) Engineering offices;

(4) Assembly of electronic instruments or devices, precision instruments and similar industries;

(5) Blueprinting, photocopying or printing office;

(6) Light and clean manufacturing operations which meet all the requirements of this article and are operated only within completely enclosed building;

(7) Research offices and laboratories;

(8) Storage building or yard which is incidental to a permitted use. Goods and equipment should be stored in fully enclosed buildings, but if for the conduct of business they must be stored in a yard, then the yard must be fully screened from public view by a densely planted hedge, wall or fence measuring a minimum of six (6) feet in height;

(9) Adult entertainment establishments if otherwise complying with the applicable Winter Park or Orange County adult entertainment code;

(10) All accessory uses which are customarily incidental to such industrial uses;

(11) Churches, non-profit organizations' halls/lodges and schools (see parking requirements for limitations);

(12) Any use permitted in the C-3 district, except those including residential uses.

(c) *Conditional uses.* The following uses may also be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90. Conditional Uses.

(1) Lumberyard, building material storage yard or contractor's storage yard;

(2) Public utility facility such as storage yard, substation, and the like;

(3) Welding shop, automobile body shop, or metal working shop;

(4) Drive-in components of any business;

(5) Buildings over 10,000 square feet or any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.

(6) Any conditional use allowed in the C-3 district, except those including residential uses.

(d) *Development standards.*

(1) Any building constructed within this district shall adhere to the following minimum or required setbacks for front, rear and side yards. The front setback shall be a minimum of fifteen (15) feet from the property line. Side yard setbacks shall be a minimum of five (5) feet from each property line. The rear setback shall be a minimum of thirty (30) feet from the property line. For any required front setback, the distance may be increased upon the determination by the public works director and police chief that a traffic sight distance safety problem may exist to the extent necessary to remedy the problem. The rear setback shall be waived for any lot having a railroad right-of-way as its rear lot line. Whenever a parcel zoned in this district abuts a residentially zoned parcel, there shall be a minimum setback of thirty (30) feet from each property line adjacent to the residentially zoned property. If a loading and unloading area is to be in front of the building, the front setback shall be increased to thirty-five (35) feet.

(2) If a person constructing a building within this district desires to combine the minimum side yard setbacks and provide them on only one side of the lot, a site plan showing the locations of the proposed building as well as the location of existing adjacent building must be submitted to the planning and zoning commission for approval prior to the issuance to a building permit to ensure sufficient compatibility to adjacent properties. This reduction to the required side setback however, shall not be permitted if adjacent to a residentially zoned parcel.

(3) The maximum floor area ratio and building lot coverage shall be forty-five (45%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The forty-five (45%) floor area ratio and building lot coverage may be increased by an additional five (5%) percent if the parking for the increased five (5%) percent floor area ratio is located entirely underground beneath the building's footprint or if the building's upper floor(s) are cantilevered over such parking or if it is for a hotel building. However, if a building is utilized only for warehouse or storage uses and less than ten (10%) percent of the floor area is utilized as office or administrative space then the floor area ratio may be one hundred (100%) percent and the maximum building lot coverage shall be eighty-five (85%) percent.

(4) This district does not permit any residential building or residential units as a component of any building.

(5) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(6) Building heights shall not exceed the height limits imposed by the Maximum Height Map. For those properties within the geographic areas shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height shall be forty-two and a half (42.5) feet; for those properties shown with a four story maximum height, the maximum building height shall be fifty-five (55) feet; for those properties shown with a five story maximum height, the maximum building height shall be sixty-five (65) feet and for the properties shown permitting up to eight stories, the maximum height shall be ninety-five (95) feet. Unless specifically approved by the City Commission, based on a finding that the building is compatible with adjacent properties, properties with buildings developed with less than the maximum building stories shall nonetheless conform to the Maximum Height Map for the applicable stories. For example, if a two story building is developed within an area permitting a four story building, the two story building shall conform to the thirty (30) foot height limit. Parking garage levels shall be counted as stories for each level except for any basement level or the open roof level.

(7) Parapet walls or mansard roofs functioning as parapet walls may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers and related non-occupied structures may be permitted to extend up to ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet of additional height upon approval of the city commission, based on a finding that said features are compatible with adjacent properties.

(8) For properties not designated on the Maximum Height Map, the maximum height shall not exceed fifty-five (55) feet when located adjacent to four lane roadways and no greater than forty-two and a half (42.5) feet when located adjacent to two lane roadways. For corner properties adjacent to both four lane and two lane roadways the greater height may apply.

(9) Terracing and articulation requiring additional setbacks are required to create relief to the overall massing of the building facades as are appropriate for the building's architectural style. Such design features of building façade articulation are required at least every sixty (60) feet along the façade of the primary building facades facing streets or the building frontage onto its primary parking lot area. For any building over two stories in height, a significant portion of the top floor shall be terraced and stepped back from the exterior face of the next lower floor by an average of at least five (5) feet. Parking structures are exempt from this terracing requirement.

(10) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence, shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(11) The maximum impervious coverage shall be eighty-five (85%) percent of any property.

(12) Any above grade parking garages or decks constructed within this district must be at least one hundred (100) feet away from any single family or low density residential property

(13) Other code sections related to development that should be referenced include, but are not limited to, Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

(e) *Minimum building site.* There shall be no minimum building site area but a parcel must have a minimum frontage on a publicly dedicated right-of-way of 50 feet.

(f) *Other requirements.* The code enforcement director of the city is empowered to investigate any uses or businesses within this district to determine if they are in conformity with the requirements of this article of not being obnoxious by reason of sound, fumes, heat, repulsive odors and the like, and to require those found not in conformity to rectify this situation immediately to the satisfaction of the city.

## **Sec. 58-79. Public and Quasi-Public (PQP) District.**

(a) *Purpose and intent.* This district is established to provide suitable areas for public, public service, and quasi-public uses or buildings. This district is generally intended to accommodate the activities of public agencies, governments, social service agencies, schools, community centers, utilities, museums, nursing homes/assisted living facilities and hospitals. This district is intended to provide the combination of public and quasi-public uses along with any customary residential accommodations that are generally a part of the primary function of the entity. New community facilities or expansions of facilities shall be permitted only when those facilities or the particular uses of the facilities are compatible with the character of the surrounding area, and when there is minimal additional impact over that generated by the existing land use, taking into account such factors as traffic, parking, noise, height and size of facilities.

(b) *Permitted uses.* The following buildings or uses and additions thereto are permitted uses:

(1) Schools and educational uses, including:

a. Elementary, junior high and high school, both public and private, including general education as well as vocational-technical schools;

b. Higher education institutions, including community and junior colleges, colleges and universities, and also incidental to the primary permitted use and as a convenience to the occupants of such properties, the following uses shall be considered permitted uses, to wit: dining halls, cafeterias, student centers, bookstores, copy stores, health centers, museums, theaters, and recreational facilities, pursuant to their approved Master Plans required by law.

(2) Health service uses including:

a. Hospitals and their affiliated health care, treatment, diagnostic and preventative medical care facilities; pursuant to their approved Master Plans required by law.

b. Nursing homes, convalescent homes, homes for the elderly including retirement homes and assisted living complexes.

(3) Public utility and service uses including:

a. Potable water, waste water, sanitary sewer, drainage and stormwater collection, treatment and disposal facilities;

b. Solid waste collection and transfer facilities, but excluding disposal facilities;

c. Public safety facilities including residential components;

d. Public utility facilities including electric, natural gas, telephone, cable television;

e. Public administration offices germane to the above uses.

(4) Governmental uses in performance of governmental functions.

(5) Institutional office and public service uses for community service organizations.

(6) Museums.

(7) Churches and other places of religious functions.

(c) *Accessory uses permitted.* The city commission, following a public hearing, may approve the location of the following accessory and ancillary uses within structures permitted in this district. These uses must be located within the primary structure (not within a separate structure) and must be primarily for the use and convenience of occupants of the building. These uses shall not have separate public entrances to the outdoors nor separate outdoor advertising signs or any other advertising signs which encourage use by the general public. The city commission may recommend other restrictions or requirements including a maximum floor area, which would allow these accessory commercial uses to be in harmony with the otherwise office environment and which would prevent these accessory uses from having an adverse effect on the surrounding area.

(1) Restaurant or cafeteria;

(2) Newspaper, card and gift shop, florist, fitness center or health club.

(3) Pharmacy store within a medical office building which sells prescription and nonprescription drugs, medicines and medically related equipment only.

(d) *Conditional uses.* The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90 Conditional Uses.

(1) Drive-in components of any business;

(2) Buildings over 10,000 square feet or any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.

(3) Any conditional use provided in the R-3 or R-4 districts utilizing and limited to the site and improvement regulations of this district for those conditional uses, but excluding those with residential uses or units, unless expressly permitted in this district.

(4) Fitness facility, exercise or health club.

(5) Any permitted building with residential accommodations as a component of the building, as set forth in subsection (f). However, time shares are not permitted.

(6) Buildings with a third floor within the central business district up to forty (40) feet in height which requires the affirmative votes of four (4) city commissioners to be approved.

(e) *Minimum building site.* There shall be no minimum building site size except that each site shall have a minimum frontage of 50 feet on a publicly dedicated right-of-way.

(f) *Development standards.*

(1) Any building constructed within this district shall adhere to the following minimum or required setbacks for front, rear and side yards. The front setback shall be a minimum of ten (10) feet from the property line. Side yard setbacks shall be a minimum of five (5) feet from each property line unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. The rear setback shall be a minimum of thirty (30) feet from the property line. However, within the Hannibal Square Neighborhood Commercial District, as set forth in this section, new buildings shall have a required ten (10) foot front setback and may be permitted zero-foot side setbacks unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. For any required front setback, the distance may be increased upon the determination by the public works director and police chief that a traffic sight distance safety problem may exist, to the extent required to remedy the problem.

(2) If a person constructing a building within this district desires to combine the minimum side yard setbacks and provide them on only one side of the lot, a site plan showing the locations of the proposed building as well as the location of existing adjacent building must be submitted to the planning and zoning commission for approval prior to the issuance of a building permit to ensure sufficient compatibility with adjacent properties. This reduction to the required side setback however, shall not be permitted if adjacent to a residentially zoned parcel.

(3) The maximum floor area ratio and building lot coverage outside of the central business district shall be forty-five (45%) percent. The floor area ratio shall include the floor area of any attached or detached above grade private parking garage. The forty-five (45%) percent floor area ratio and building lot coverage may be increased by an additional five (5%) percent if the parking for the increased five (5%) percent floor area ratio is located entirely underground beneath the building's footprint or if the building's upper floor(s) are cantilevered over such parking. Within the central business district, the maximum floor area ratio shall be two hundred (200%) percent and the maximum building lot coverage shall be eighty-five (85%) percent.

(4) This district does not allow residential buildings except as accommodations for the uses permitted in this district, such as dormitories for colleges, hospital beds, nursing home beds, and assisted living accommodations.

(5) The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(6) Building heights shall not exceed the height limits imposed by the Maximum Height Map.. For those properties within the geographic areas shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height shall be forty-two and (42.5) feet, unless the property is located within the Central Business District, where the maximum height for three stories shall be forty (40) feet, when approved as a conditional use. Variances for more than



three stories in the Central Business District are prohibited. For those properties shown with a four story maximum height, the maximum building height shall be fifty-five (55) feet; for those properties shown with a five story maximum height, the maximum building height shall be sixty-five (65) feet, and for the properties shown permitting up to eight stories, the maximum height shall be ninety-five (95) feet. Unless approved as conditional uses by the City Commission, properties with buildings developed with less than the maximum building stories shall nonetheless conform to the Maximum Height Map for the applicable stories. For example, if a two story building is developed within an area permitting a four story building, the two story building shall conform to the thirty (30) foot height limit. Parking garage levels shall be counted as stories for each level except for any basement level or the open roof level.

(7) Parapet walls or mansard roofs functioning as parapet walls may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers and related non-occupied structures may be permitted to extend up to ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis, encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet of additional height, upon approval of the City Commission, based on a finding that said features are compatible with adjacent projects.

(8) For properties not designated on the Maximum Height Map, the maximum height shall not exceed fifty-five (55) feet, for properties located adjacent to four lane roadways, and no greater than forty-two and a half (42.5) feet for properties located adjacent to two lane roadways. For corner properties adjacent to both four lane and two lane roadways, the greater height may be used.

(9) Terracing and articulation requiring additional setbacks are required to create relief to the overall massing of the building facades as are appropriate for the building's architectural style. Such design features of building façade articulation are required at least every sixty (60) feet along the primary building façades facing streets, or along the building frontage where it fronts the primary parking lot area. For any building over two stories in height and over 200 feet in length, there shall be a thirty-five (35) foot break on at least the first floor, the design of which shall be a component of the architectural review process required for conditional use. For any building over two stories in height, a significant portion of the top floor shall be terraced and stepped back from the exterior face of the next lower floor by at least an average of five (5) feet. Parking structures are exempt from this terracing requirement.

(10) Development shall not exceed eighty-five (85%) percent impervious coverage in this district.

(11) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(12) Any above grade parking garages or decks constructed within this district must be at least one hundred (100) feet away from any property used for single family or low density residential.

(13) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

g) *Hannibal Square Neighborhood Commercial District.*

(1) The Hannibal Square Neighborhood Commercial District (HSNCD) area in this context shall be restricted to the following areas:

- a. Properties abutting Morse Boulevard between Capen Avenue and Virginia Avenue;
- b. Properties abutting New England Avenue between Pennsylvania and New York Avenues;
- c. Properties abutting Pennsylvania Avenue between Lyman and Garfield Avenues, including those existing commercial properties just north of Garfield Avenue; and
- d. Properties abutting Hannibal Square East.

(2) In order to implement the comprehensive plan and the community redevelopment area (CRA) plan, there are established special provisions for the development of buildings and other improvements in this area which shall take precedence over other provisions of this article as henceforth specified.

(3) In this HSNCD area, third floors shall be restricted and limited to residential use only, and a deed restriction, to that effect, enforceable by the City, shall be required as a condition of a building permit for the construction of a third floor.

(4) Building heights on the north end of Pennsylvania Avenue shall be two stories maximum when transitioning to residential.

(5) Development approvals must ensure that compatible land use relationships occur, particularly between land uses within perimeter areas of the HSNCD and areas 500 feet outside this area, so as to protect the surrounding residential areas and institutional uses.

(6) In the HSNCD area, all new buildings and building additions over 250 square feet shall require site and building plan approval by the city commission at a public hearing. Prior to that hearing, the planning and zoning commission shall also review such site and building plans at a public hearing and shall provide their recommendation.

(7) Notwithstanding the limitations otherwise imposed by this PQP district, for any lots fronting on New England Avenue from Virginia to New York Avenues, development may be permitted with enhanced density and intensity up to a maximum 100% floor area ratio (FAR) provided the following development standards are complied with:

- a. No parking garages would be permitted.
- b. The street front building setback shall be 10 feet.
- c. The redevelopment plans would require rear alley access out to Virginia Drive or provisions shall be made for that rear alley access to be phased in over time as the properties individually redevelop.
- d. The maximum building width along New England Avenue shall be 125 feet before a 15 foot separation is required to break up the mass and create a separate building.

- e. The redevelopment plans on the north and south side of New England Avenue require a 50 foot rear setback from the center lot line of the block as a buffer protection to adjacent residential properties. The 50 feet also provides room for parking along the alley as outlined above.
- f. There shall be a one foot setback for each one foot of floor height for any third floor and building corner visibility setbacks as deemed necessary.

(h) *Central business district area facade review.*

(1) In addition to the other requirements and regulations of the PQP zoning district, and prior to the issuance of a building permit for the construction, renovation or remodeling of any building exterior facade, an applicant is required to obtain approval of the plans by the planning department.

(2) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building façade.

(3) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten (10) working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(4) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(5) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to design guidelines and criteria adopted by the city commission.

(6) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.

(i) *Morse Boulevard design guidelines.*

(1) The Morse Boulevard designated area is defined as those properties fronting Morse Boulevard between New York Avenue and Denning Drive and additionally the properties in the blocks bounded by Morse Boulevard, Denning Drive, Canton Avenue and Harper Street.

(2) In addition to the other requirements and regulations of the PQP zoning district and prior to the issuance of a building permit for the construction, renovation or remodeling of any building or building exterior facade fronting on a street within the Morse Boulevard designated area, an applicant is required to obtain approval of the plans by the planning department.

(3) Building elevation drawings and other plans shall be submitted of sufficient detail to indicate the building materials, composition, color, etc. so that the visual appearance of the resultant work is readily apparent.

(4) For purposes of this subsection, replacements, renovations or changes to canopies or awnings and to signage on walls, canopies or awnings shall be considered remodeling of the building facade.

(5) The planning department shall render a decision on all applications for building permits for building facade construction, renovation or remodeling. The decision of the planning department shall be made within ten working days, excluding holidays, of the receipt of a complete set of plans and application materials, unless referred to the planning and zoning commission for review as outlined below.

(6) The planning department's decision shall be either an approval, an approval with conditions or denial. Any applicant for building facade approval may elect to appeal a decision of the planning department to the planning and zoning commission for their consideration.

(7) Decisions by the planning department and/or the planning and zoning commission shall be made based on the conformance of plans and application materials to the Morse Boulevard design guidelines and criteria adopted by the city commission.

(8) The decision of the planning and zoning commission shall be the final decision of the City except where a building project also requires conditional use or other land development approval by the city commission. In that case, the decision of the planning and zoning commission shall be a recommendation with the final decision made by the city commission.

**Sec. 58-80. Parking Lot (PL) District.**

(a) *Purpose and intent.* This district is established to provide areas for public or private parking lots within a zoning district that limits the permitted use only to surface parking and does not otherwise permit any other residential or nonresidential structures or buildings. This parking lot district then may be used to commit land to only a use as a surface parking lot. This zoning district may be utilized in any comprehensive plan future land use designation in the event of future redevelopment. Above grade parking garages or decks are prohibited.

(b) *Permitted uses.* The following is the only permitted use:

(1) Surface parking lots including stormwater retention facilities but not parking garages or decks.

(c) *Development standards.*

(1) All parking lots shall meet the requirements of this article in terms of the design and construction, and other requirements as specified in the off-street parking and loading regulations and shall meet such other technical requirements as required by the city for traffic safety and visibility.

(2) For surface parking lots, development shall not exceed eighty-five (85%) percent impervious coverage in this district.

(3) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(4) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).

## **Sec. 58-81. Parks and Recreation (PR) District.**

(a) *Purpose and intent.* The purpose of a parks and recreation district is to insure that areas of the city are preserved for park, open space, and recreational purposes for the benefit of the residents or maintained as open space due to their environmental sensitivity and benefit to the overall environment whether publicly or privately owned.

(b) *Permitted uses.*

- (1) Public parks and recreational facilities;
- (2) Publicly or privately owned cemeteries and tree nurseries;
- (3) Privately owned parks and recreational facilities which are restricted to use by residents in a particular subdivision or neighborhood area;
- (4) Conservation lands, wetlands and floodplain areas.

(c) *Conditional uses.* The following uses may be permitted as conditional uses following review by the planning and zoning commission and approval by the city commission in accordance with the provisions of this article. See Sec. 58-90 Conditional Uses.

- (1) Publicly or privately owned recreational facilities such as swimming pools, tennis facilities or clubs, golf courses, country clubs, etc.;
- (2) Privately owned parks and recreational facilities which are restricted to use by residents in a particular subdivision only;
- (3) Buildings over 10,000 square feet or any addition over 250 square feet to an existing building over 10,000 square feet or additions to existing buildings that result in a building over 10,000 square feet in size.

(d) *Accessory uses that may be permitted.* The city commission following a public hearing, may approve the development of, operation of, and the location of, the following accessory and ancillary commercial uses within publicly or privately owned recreational facilities and clubs. The commission shall base its decision on impacts to the surrounding area in terms of noise, night lighting, overflow parking, and traffic. These uses, when privately owned, must be primarily for the use of the members of the private facility or club. These accessory uses, when privately owned and operated, are not intended for use by the general public as revenue generators to offset costs of operating and sustaining their primary function as private recreation facilities. Publicly owned recreational facilities may be open to the general public, if approved by the City as a rental facility. The city commission may recommend conditions of approval to ensure these accessory commercial uses are in harmony with the surrounding neighborhood. Only the following uses are allowed:

- (1) Restaurants for the use of the members or users of the recreational facility;
- (2) Retail shop related to the on-site recreational activity, such as golf pro shop at a golf course, tennis pro shop at a tennis club for the use of the members or users of the recreational facility;

(3) Fitness center or health club for the use of the members or users of the recreational facility;

(e) *Development standards.*

(1) Any buildings or structures erected within this district shall be approved by the city commission following a public hearing after receiving recommendations from the planning director and/or the parks and recreation director. The city commission may elect to refer such decisions to the planning and zoning commission or parks and recreation board for recommendations prior to their final deliberations. It shall be the goal of the city commission to encourage the use of the publicly and privately owned recreational facilities while minimizing to the maximum extent possible any adverse impacts on adjacent residential areas from overflow parking, traffic, noise and night lighting.

(2) Any building constructed within this district shall adhere to the following minimum or required setbacks for front, rear and side yards. The front setback from all streets shall be a minimum of ten (10) feet from the property line. Side yard setbacks shall be a minimum of ten (10) feet from each property line to any non-residentially zoned parcels and twenty (20) feet to any residentially zoned parcels. Rear yard setbacks shall be a minimum of twenty (20) feet from each property line to any non-residentially zoned parcels and thirty-five (35) feet to any residentially zoned parcel. Based upon the size and scale of the building or structure, the city commission may impose greater setbacks as would be compatible with the characteristics of the adjacent properties.

(3) The maximum floor area ratio and building lot coverage shall be twenty (20%) percent for active recreational facilities and ten (10%) percent for passive recreational facilities. The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(4) Building heights shall not exceed two story height limits and the maximum building height shall be thirty (30) feet for flat roof buildings and thirty-five (35) feet for peaked roof buildings. Parapet walls or mansard roofs functioning as parapet walls on flat roofed buildings may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers shall not extend more than ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis, encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet of additional height, upon approval of the City Commission, based on a finding that said features are compatible with adjacent properties.

(5) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such



wall or fence shall be only three feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

## **Sec. 58-82. Planned Development One (PD-1) District.**

### *(a) Purpose:*

(1) The Planned Development One(PD-1) district provides for and encourages the development of Class A office space, complementary specialty retail businesses, restaurants and residential units as compatible uses at urban densities in accordance with the Comprehensive Plan. The provisions of this zoning district shall establish the setting and character of improvements and structures allowed on the land that enhances the historic village character of the City and promotes a pedestrian-friendly environment. The PD-1 district should encourage the development of diverse urban infill projects containing specialty retail shops, Class A offices, restaurants, residential units, and public places. The increased density permitted by this PD-1 district contrasted with other districts should be balanced by the provision of meaningful public amenities and open spaces. Each urban use project shall incorporate designs and architecture that enhances the surrounding area and which encourages traditionally designed, pedestrian friendly neighborhoods.

### *(b) Application:*

(1) The Planned Development One (PD-1) zoning district is appropriate for limited areas along the major commercial corridors that possess prior office or commercial zoning, as specified in the Comprehensive Plan, in order to permit the efficient use of land, as well as the clustering of different land uses. Planned Development (PD-1) zoning shall not be permitted in the Central Business District, Hannibal Square Neighborhood Commercial District or in any other location unless specified in the Comprehensive Plan. The adoption of Planned Development one (PD-1) zoning shall only occur in locations where redevelopment is to be encouraged, where the scale and character of the resultant project will be compatible with the commercial/ office location, where the parcel size is sufficient, and where there are minimal impacts on nearby residential properties. The district is intended to allow residential and non-residential uses to be developed in a single project. This zoning discourages strip commercial development, stabilizes and increases property values, reduces energy consumption, and creates an environment where people live, work, shop and have recreational opportunities in the same or nearby areas. In the Planned Development One (PD-1) district, specific provisions are to be applied on a case by case basis to ensure the compatibility of character and intensity of the Planned Development (PD) with the surrounding development. The PD may constitute an individual building or may be comprised of two or more buildings which share a unified plan of development, common control, and are physically proximate to one another (both instances referred to as "Project" herein). While a single use project may be permitted where the single use is Class A office space and not retail, this district is primarily intended for projects which contain a mix of permitted uses. The PD 1 district, which permits less density/intensity than the PD-2, is intended for locations closer to the historic core of the City, as specified in the Comprehensive Plan.

(2) The City recognizes that specific properties identified as Planned Development One (PD-1) candidates in the Comprehensive Plan, may be appropriate for PD-1 zoning if restricted as to height, intensity and density to ensure compatibility with the surrounding areas. Identification of properties as candidates for Planned Development One (PD-1) zoning in the comprehensive plan does not create an entitlement to be approved for this zoning district. The purpose of this Planned Development One (PD-1) district is to permit development and redevelopment that will:

- a. Increase the City's tax revenues by providing Class A Office, Commercial or Residential that satisfies demonstrated space needs within the City. The City encourages development of Class A Office.
- b. Enhance the City's gateways by providing incentives for redevelopment.

- c. Substantially increase landscaping, trees and setbacks obtainable from existing Commercial/Office designations by providing not less than 25% natural pervious green space.
- d. Create inviting pedestrian oriented public spaces.
- e. Provide increased flexibility to the City in the consideration of unique development opportunities.

(3) In addition to meeting the requirements of the section, each application for Planned Development zoning shall provide the same application submittals required for conditional uses, and shall also address at a minimum:

- a. How the project's level of density/intensity, based on proximity to the historic core of Winter Park, is compatible with the surrounding area.
- b. The project's retail, office, and residential use standards
- c. The amount of open space and permeable space provided in excess of development anticipated by the existing zoning
- d. A justification as to the appropriateness of the proposed height, scale, mass, setbacks, lot coverage and density restrictions
- e. Provisions to guarantee the long term maintenance of the buildings and amenities
- f. A parking management plan describing the operation of the parking lots and parking garages, including whether any fees for parking will be charged, methods of reserving spaces and other anticipated operational functions
- g. Methods of protection and buffering of residential units within the project, or in the vicinity outside the project, from noise, exhaust and lighting
- h. How landscaping will be provided in excess of the minimum requirements of the existing zoning
- i. How the provision of public spaces (courtyards/gathering places) is superior to that required by the existing zoning
- j. How transportation connections to bus transit and bike trails will occur
- k. The adequacy of egress/ingress requirements including on-site stacking
- l. To what degree affordable and workforce housing has been included within the project, and if not, methods of providing that public need off-site.
- m. The method of sidewalk and streetscape enhancement that will be undertaken that is superior to that required by the existing zoning
- n. Restrictions proposed to ensure compliance with restrictions on single retail tenant use, as provided in subsection C
- o. Compliance with the minimum distance requirements between PD buildings and other projects
- p. Mitigation of any other transportation issues
- q. The methods of waste management collection and emergency vehicle access.
- r. The tools for limiting mass of individual buildings to ensure compatibility with the historic Village Character of Winter Park such as: Separation of large buildings into separate buildings; restricting wall heights at side yard setbacks; reducing heights along sensitive edges; establishing maximum wall plane lengths that reflect the traditional width of buildings along the street; and alignment of front setbacks.

(c) *Permitted Uses or Permitted Mix of Uses:*

(1) Retail businesses involving the sale of merchandise within enclosed buildings. However, single tenant retail stores in excess of 65,000 square feet are prohibited. While single tenant retail stores may sub-lease interior portions of their floor space to banks, car rental agencies, food vendors, coffee shops, etc, if the balance of the retail floor space is at least eighty-five (85%) devoted to a single retail user/business, then the entire business shall be deemed to be a single retail store.

(2) Establishments involved in the rendering of a personal or business service, including banks, barber or beauty shops, dry cleaning establishments, hotel or motels, theaters, travel agencies, and restaurants (provided that if these restaurant establishments are serving alcoholic beverages for consumption on the premises then such restaurants must be located more than 300 feet from off-site residential properties). Bars, taverns, lounges, tattoo, body art and fortune telling businesses are prohibited.

(3) Residential units; provided, however, that in buildings with street frontage, the first floor shall contain non-residential uses in at least seventy-five (75%) percent of the first floor and along the entire street frontage. For buildings with multiple street frontages the requirement that seventy-five (75%) percent of the frontage be non-residential shall apply only to the primary street frontage(s) based upon the project's visibility and roadway function. For purposes of calculating the 75%, the floor area of parking garages shall not be included.

(4) Business, financial, governmental, medical and professional offices;

(5) Off-street parking lot or parking garage, except for the storage of heavy duty construction equipment, trucks, and drill rigs, etc.

(6) Permanent recreational facilities within enclosed soundproof buildings, both publicly and privately owned.

(d) *Conditional Uses:*

(1) The following uses may also be permitted as conditional uses under section 58-90:

a. Drive-in components of any business.

b. Restaurants providing alcoholic beverages for consumption on the premises when such restaurant is located within three hundred (300) feet of off-site residential properties.

c. Buildings over ten thousand (10,000) square feet or any significant change or addition to an existing building over 10,000 square feet or additions to a building that result in a building over 10,000 square feet.

d. Any significant change to the representations provided as part of the application as are approved pursuant to Section 58-82 (b).

(e) *Development Standards:*

(1) Minimum and Maximum Property Size - Minimum property size for a PD project shall be eighty thousand (80,000) square feet. The maximum property size for any PD project shall be three (3) acres. For properties between three (3) acres and six (6) acres, only fifty (50%) percent up to a

maximum of three (3) acres may be used for a PD project, with the balance of the property limited to traditional zoning. On properties larger than six (6) acres, there must be multiple PD projects and in no case shall any individual PD project encompass a site larger than three (3) acres. For example, on a nine (9) acre site, two separate PD projects of three (3) acres each may be permitted, with the remaining portion of the site developed under traditional zoning. Allowable densities shall be based on the portion used for the PD project, not the total site area. Separate but adjoining PD projects under different ownership created by subdivision or lease from a parent parcel previously in single ownership may not be used as a means to circumvent this requirement, absent approval from the City Commission based on the compatibility of the projects with the adjoining properties. In addition, there shall be no less than seventy-five (75) feet of separation between any two principal PD project buildings.

(2) Maximum Floor Area Ratio (FAR) – Based upon the maximum number of stories as specified in the Maximum Height Map, the maximum FAR shall be one hundred thirty (130%) for any property having a three (3) story maximum height, and one hundred seventy-five (175%) percent for any property having a four (4) story maximum height. For any property not designated on the Maximum Height Map, the maximum FAR shall be one hundred seventy-five (175%) percent. Private structured parking above grade shall be counted toward the maximum floor area ratio. Basement parking structures, or any other basement areas, when more than one-half of that basement is below the curb level, are not included in the FAR calculations. These maximum floor area ratios are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio, including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions, and natural features, as well as compliance with applicable code requirements, such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. In addition, in the review and approval of specific projects the city commission may limit and restrict the achievable floor area ratio. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(3) Maximum Building Lot Coverage – The maximum building lot coverage (footprint) of the project shall not exceed forty-seven percent (47%) for any project zoned PD 1. Variances to these building lot coverage maximum provisions are prohibited. Furthermore, these maximum building lot coverage percentages are not an entitlement and are not achievable in all situations. Many factors may limit the achievable building lot coverage including physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to parking, setbacks, lot coverage and design standards. In addition, the City Commission in the review and approval of specific projects may limit and restrict the achievable building lot coverage. Land located across a street and separated from the building site shall not be included in the available land area calculation.

(4) Minimum Open Space – The land area of the PD project within the private property not covered by buildings shall constitute the project's open space. At least twenty-five (25%) of the total dimensions of the private property shall be natural pervious green space and shall not be covered by any impervious surfaces or be utilized as an above ground required storm water retention area. Such required open space shall not satisfy the concurrency requirement for parks.

(5) The street front setbacks required in this district shall be as follows:

	Building Height		
	1 story	2 story	3+ stories
Road Type			
Primary 4 Lane	20 feet	25 feet	30 feet
Secondary 2 Lane	20 feet	20 feet	25feet

(6) Minimum street front setbacks along primary four lane roads starting from the property line should consist of at least a seven (7) foot wide landscape planting pedestrian protection zone. The remaining setback width up to the building face may be a combination of sidewalk (minimum eight (8) foot width fronting retail or office space and ten (10) feet fronting restaurant space) and landscape areas. These dimensions may be adjusted on a case by case basis by the City Commission in the review of specific building projects based on the compatibility of the project with adjoining areas.

(7) Side setbacks shall be a minimum of five (5) feet for one or two story building components and twenty (20) feet for three story or higher building components. If the project abuts other residentially zoned land then the side setbacks shall be twenty (20) feet for a one or two story building and thirty (30) feet for three story buildings or higher.

(8) Rear setbacks shall be a minimum of ten (10) feet for one or two story building components and twenty (20) feet for three story or higher building components. If the project abuts other residentially zoned land, the rear setbacks shall be twenty (20) feet for a one or two story building and thirty (30) feet for three story buildings or higher.

(9) Building facades in excess of one hundred twenty (120) feet in length shall incorporate horizontal articulation design features intended to create relief. This may be accomplished through horizontal articulation or breaks in the building façade, with increased setbacks greater than five (5) feet, and variations in the massing or other architectural elements which create relief along the façade. Such design features shall occur at least every sixty (60') feet on average along the primary buildings' facades facing streets or the building frontages facing the primary parking areas. For any building, the maximum building length along a street frontage shall be two hundred (200) feet, and the separation between buildings shall be a minimum of thirty-five (35) feet.

(10) Terracing and/or additional setbacks to accomplish vertical articulation are required to create relief to the overall massing of the building facades. For any building over two stories in height, a significant portion of the top floor shall be terraced and stepped back from the exterior face of the next lower floor by at least five (5) feet. Parking structures are exempt from the step back and terracing requirements.

(11) Parking garages shall be minimally visible from adjoining streets (except for entrances and exits) either with screening by linear building components or through architectural design compatible with the principal buildings that creates the appearance that the parking garage is retail, or office, or a residential building, and not obviously a parking garage.

(12) The minimum residential unit size shall be 450 square feet and the maximum residential density shall be seventeen (17) units per acre. However, the City Commission on a case by case basis may permit the maximum densities within the district to be exceeded by up to five units per acre when such allowances are used exclusively for the construction of affordable or workforce housing. This incentive shall not permit additional floor area ratio, building lot coverage or building height but is intended to allow additional units within the building parameters than otherwise permitted by the district.

(13) Building heights shall not exceed the height limits imposed by the Maximum Height Map. For those properties within the geographic areas shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height shall be forty-two and a half (42.5) feet; for those properties shown with a four story maximum height, the maximum building height shall be fifty-five (55) feet. For any property not shown on the Maximum Height Map, the maximum building height shall be fifty-five (55) feet. Unless specifically approved by the City Commission based on compatibility with adjoining properties, where buildings are developed at lesser building stories than might otherwise be permitted by the Maximum Height Map, those buildings shall conform to the maximum height in feet as outlined above for the applicable stories. For example, if a two story building is developed within an area designated as permitting a four story building, the two story building shall conform to the thirty (30) foot height limit. Parking garage levels shall be counted as stories for each level except for any basement level or the open roof level. Parapet walls or mansard walls functioning as parapet walls, may be added to the building, but shall not exceed more than five (5) feet above the building roof height limitation outlined above. Mechanical equipment, elevator towers, and related non-occupied structures may be added to the building roof height, but in no case shall exceed more than ten (10) feet above these building roof height limitations, and shall be located and screened to the maximum extent possible so that they are not visible from the street. Architectural appendages, embellishments and other architectural features may be permitted to exceed these roof heights specified, on a limited basis encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet above the maximum building roof heights detailed above, upon approval of the City Commission, based on a finding that said features are compatible with adjacent projects.

(14) Any above grade parking garages or decks constructed within this district must be at least one hundred (100) feet away from any single family or low density residential zoned property

(15) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(16) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).



## **Sec. 58-83. Planned Development Two (PD-2) District.**

### *(a) Purpose and Intent:*

(1) The Planned Development Two (PD-2) district provides for and encourages the development of Class A office space, complementary specialty retail businesses, restaurants and residential units as compatible uses at urban densities in accordance with the Comprehensive Plan. The provisions of this zoning district shall establish the setting and character of improvements and structures allowed on the land that enhances the historic village character of the City and promotes a pedestrian-friendly environment.

(2) The PD-2 district should encourage the development of diverse urban infill projects containing specialty retail shops, Class A offices, restaurants, residential units, and public places. The increased density permitted by this district contrasted with other districts should be balanced by the provision of meaningful public amenities and open spaces. Each urban use project shall incorporate designs and architecture that enhances the surrounding area and which encourages traditionally designed, pedestrian friendly neighborhoods.

### *(b) Application:*

(1) The Planned Development Two (PD-2) zoning district is appropriate for limited areas along the major commercial corridors that possess prior office or commercial zoning, as specified in the Comprehensive Plan, in order to permit the efficient use of land, as well as the clustering of different land uses. Planned Development Two (PD-2) zoning shall not be permitted in the Central Business District, Hannibal Square Neighborhood Commercial District or in any other location unless specified in the Comprehensive Plan. The adoption of Planned Development Two (PD-2) zoning shall only occur in locations where redevelopment is to be encouraged, where the scale and character of the resultant project will be compatible with the location where the parcel size is sufficient, and where there are minimal impacts on nearby residential properties. The district is intended to allow residential and non-residential uses to be developed in a single project. This zoning discourages strip commercial development, stabilizes and increases property values, reduces energy consumption, and creates an environment where people live, work, shop and have recreational opportunities in the same or nearby areas. In the Planned Development (PD-2) district, specific provisions are to be applied on a case by case basis to ensure the compatibility of the character and intensity of the Planned Development (PD) with the surrounding development. The PD may constitute an individual building or may be comprised of two or more buildings which share a unified plan of development, common control, and are physically proximate to one another (both instances referred to as "Project" herein). While a single use project may be permitted where the single use is primarily Class A office space and not retail, the application of this district is primarily intended for projects which contain a mix of permitted uses within the project. The Planned Development (PD-2) district is intended for locations further removed from the historic core, located in the area west of Orlando Avenue as a means to incentivize redevelopment of the gateway corridors leading to the historic core of the City, as specified in the Comprehensive Plan.

(2) The City recognizes that specific properties identified as Planned Development Two (PD-2) candidates in the Comprehensive Plan, may be appropriate for PD-2 zoning if restricted as to height, intensity and density to ensure compatibility with the surrounding areas. Identification of properties as candidates for Planned Development Two (PD-2) zoning in the comprehensive plan does not create an entitlement to be approved for this zoning district. The purpose of PD-2 is to permit development and redevelopment that will:

- a. Increase the City's tax revenues by providing Class A Office, Commercial or Residential that satisfies demonstrated space needs within the City. The City encourages development of Class A Office.
- b. Enhance the City's gateways by providing incentives for redevelopment.
- c. Substantially increase landscaping, trees and setbacks obtainable from existing Commercial/Office designations by providing not less than 25% natural pervious green space.
- d. Create inviting pedestrian oriented public spaces.
- e. Provide increased flexibility to the City in the consideration of unique development opportunities.

(3) In addition to meeting the requirements of the section, each application for Planned Development zoning shall provide the same application submittals required for conditional uses, and shall also address at a minimum:

- a. How the project's level of density/intensity, based on proximity to the historic core of Winter Park, is compatible with the surrounding area.
- b. The project's retail, office, and residential use standards are to be
- c. The amount of open space and permeable space provided in excess of development anticipated by the existing zoning
- d. A justification as to the appropriateness of the proposed height, scale, mass, setbacks, lot coverage and density restrictions
- e. Provisions to guarantee the long term maintenance of the buildings and amenities
- f. A parking management plan describing the operation of the parking lots and parking garages including whether any fees for parking will be charged, methods of reserving spaces and other anticipated operational functions
- g. Methods of protection and buffering of residential units within the project, or in the vicinity outside the project, from noise, exhaust and lighting
- h. How landscaping will be provided in excess of the minimum requirements of the existing zoning.
- i. How the provision of public spaces (courtyards/gathering places) is superior to that required by the existing zoning
- j. How transportation connections to bus transit and bike trails will occur
- k. The adequacy of egress/ingress requirements including on-site stacking
- l. To what degree affordable and workforce housing has been included within the project, and if not, methods of providing that public need off-site.
- m. The method of sidewalk and streetscape enhancement that will be undertaken that is superior to that required by the existing zoning

- n. Restrictions proposed to ensure compliance with code limitations on single retail tenant use, as provided in subsection C.
- o. Compliance with the minimum distance requirements between PD buildings and other projects
- p. Mitigation of any other transportation issues
- q. The methods of waste management collection and emergency vehicle access.
- r. The tools for limiting mass of individual buildings to ensure compatibility with the historic village character of Winter Park such as: separation of large buildings into separate buildings; restricting wall heights at side yard setbacks; reducing heights along sensitive edges; establishing maximum wall plane lengths that reflect the traditional width of buildings along the street; and alignment of front setbacks.

(c) *Permitted Uses or Permitted Mix of Uses:*

(1) Retail businesses involving the sale of merchandise within enclosed buildings. However, single tenant retail stores in excess of 65,000 square feet are prohibited. While single tenant retail stores may sub-lease interior portions of their floor space to banks, car rental agencies, food vendors, coffee shops, etc, if the balance of the retail floor space is at least eighty-five (85%) devoted to a single retail user/business, then the entire business shall be deemed to be a single retail store.

(2) Establishments involved in the rendering of a personal or business service, including banks, barber or beauty shops, dry cleaning establishments, hotel or motels, theaters, travel agencies, and restaurants (provided that if these restaurant establishments are serving alcoholic beverages for consumption on the premises then such restaurants must be located more than 300 feet from off-site residential properties). Bars, taverns, lounges, tattoo, body art and fortune telling businesses are prohibited.

(3) Residential units; provided, however, that in buildings with street frontage, the first floor shall contain non-residential uses in at least seventy-five percent (75%) of the first floor and along the entire street frontage. For buildings with multiple street frontages the requirement that seventy-five (75%) percent of the frontage be non-residential shall apply only to the primary street frontage(s) based upon the project's visibility and roadway function. For purposes of calculating the seventy-five percent (75%), the floor area of parking garages shall not be included.

(4) Business, financial, governmental, medical and professional offices;

(5) Off-street parking lot or parking garage, except for the storage of heavy duty construction equipment and trucks, drill rigs, etc.

(6) Permanent recreational facilities within enclosed soundproof buildings, both publicly and privately owned.

(d) *Conditional Uses:* The following uses may also be permitted as conditional uses under Section 58-90:

(1) Drive-in components of any business.

(2) Restaurants providing alcoholic beverages for consumption on the premises when such

restaurant is located within three hundred (300) feet of off-site residential properties.

(3) Buildings over 10,000 square feet, any addition over 250 square feet to an existing building over 10,000 square feet, or additions to an existing building that result in a building over 10,000 square feet.

(4) Any significant change to the representations provided as part of the application as are approved pursuant to Section 58-83 (b).

(e) *Development Standards:*

(1) **Minimum and Maximum Property Size** - Minimum property size for a PD project shall be eighty thousand (80,000) square feet. The maximum property size for any project shall be three (3) acres. For properties between three (3) acres and six (6) acres, only fifty (50%) percent up to a maximum of three (3) acres may be used for a planned development project, with the balance of the property limited to traditional zoning. On properties larger than six (6) acres, there may be multiple planned development projects, and in no case shall any individual planned development project encompass a site larger than three (3) acres. For example, on a nine (9) acre site, two separate PD projects of three (3) acres each may be permitted, with the remaining portion of the site developed under traditional zoning. Allowable densities shall be based on the portion used for the planned development project, not the total site area. Separate but adjoining PD projects under different ownership created by subdivision or lease from a parent parcel previously in single ownership may not be used as a means to circumvent this requirement, absent approval from the City Commission based on the compatibility of the projects with the adjoining properties. In addition, there shall be no less than seventy-five (75) feet of separation between any two principal PD project buildings.

(2) **Maximum Floor Area Ratio (FAR)** – Based upon the maximum number of stories as specified in the Maximum Height Map, the maximum FAR shall be one hundred thirty (130%) for any property having a three (3) story maximum height, two hundred (200%) percent for any property having a four (4) story maximum height and two hundred-fifty (250%) percent for any property identified as having a five to eight (5-8) story maximum height. For any property not designated on the Maximum Height Map, the maximum FAR shall be two hundred (200%) percent. Private structured parking above grade shall be counted toward the maximum floor area ratio. Basement parking structures or any other basement areas are not included in the FAR calculations. These maximum floor area ratios are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio, including limitations imposed by the Maximum Height Map, concurrency management/level of service standards, physical limitations imposed by property dimensions, and natural features, as well as compliance with applicable code requirements, such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. In addition, in the review and approval of specific projects, the city commission may limit and restrict the achievable floor area ratio. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.

(3) **Maximum Building Lot Coverage** – The maximum building lot coverage (footprint) of the project shall not exceed forty-seven (47%) percent for any project limited to a maximum height of three (3) stories and shall not exceed fifty-five (55%) percent for any project with more than three (3) stories. Variances to these building lot coverage maximum provisions are prohibited. Furthermore, these maximum building lot coverage percentages are not an entitlement and are not achievable in all situations. Many factors may limit the achievable building lot coverage including physical limitations imposed by property dimensions and natural features as well as compliance with applicable code requirements such as, but not limited to parking, setbacks, lot coverage and design standards. In

addition, the City Commission in the review and approval of specific projects may limit and restrict the achievable building lot coverage. Land located across a street and separated from the building site shall not be included in the available land area calculation.

(4) **Minimum Open Space** – The land area of the PD project within the private property not covered by buildings shall constitute the project’s open space. At least twenty-five (25%) of the total dimensions of the private property shall be natural pervious green space and shall not be covered by any impervious surfaces or be utilized as an above ground required storm water retention area. Such required open space shall not satisfy the concurrency requirement for parks.

(5) The street front setbacks required in this district shall be as follows:

<b>Building Height</b>					
	1 story	2 story	3 stories	4 stories	5-8 stories
<b>Road Type</b>					
Primary 4 Lane	20 feet	25 feet	30 feet	35 feet	40 feet
Secondary 2 Lane	20 feet	20 feet	25 feet	30 feet	35 feet

(6) **Minimum street front setbacks** along primary four lane roads starting from the property line should consist of at least a seven (7) foot wide landscape planting pedestrian protection zone. The remaining setback width up to the building face may be a combination of sidewalk (minimum eight (8) foot width fronting office or retail space and minimum ten (10) feet fronts restaurant space) and landscape areas. These dimensions may be adjusted on a case by case basis by the City Commission in the review of specific building projects based on the compatibility of the project with adjoining areas.

(7) **Side setbacks** shall be a minimum of five (5) feet for one or two story building components and twenty (20) feet for three story or higher building components. If the project abuts other residentially zoned land then the side setbacks shall be twenty (20) feet for a one or two story building and thirty (30) feet for three story buildings or higher.

(8) **Rear setbacks** shall be a minimum of ten (10) feet for one or two story building components and twenty (20) feet for three story or higher building components. If the project abuts other residentially zoned land, the rear setbacks shall be twenty (20) feet for a one or two story building and thirty (30) feet for three story buildings or higher.

(9) **Building facades** in excess of one hundred twenty (120) feet in length shall incorporate horizontal articulation design features intended to create relief. This may be accomplished through horizontal articulation or breaks in the building façade, with increased setbacks greater than five (5) feet, and variations in the massing or other architectural elements which create relief along the façade. Such design features shall occur at least every sixty (60) feet on average along the primary buildings’ facades facing streets or the building frontage facing the primary parking area. For any building, the maximum building length along a street frontage shall be two hundred (200) feet, and the separation between buildings shall be a minimum of thirty-five (35) feet.

(10) Terracing and/or additional setbacks to accomplish vertical articulation are required to create relief to the overall massing of the building facades. For any building over two stories in height, a significant portion of the top floor shall be terraced and stepped back from the exterior face of the next lower floor by an average of at least five (5) feet. Parking structures are exempt from the step back and terracing requirements.

(11) Parking garages shall be minimally visible from adjoining streets (except for entrances and exits) either with screening by linear building components or through architectural design compatible with the principal buildings that creates the appearance that the parking garage is retail, office or a residential building, and not obviously a parking garage.

(12) The minimum residential unit size shall be 450 square feet and the maximum residential density shall be twenty-five (25) units per acre. However, the City Commission on a case by case basis may permit the maximum densities within the district to be exceeded by up to five units per acre when such allowances are used exclusively for the construction of affordable or workforce housing. This incentive shall not permit additional floor area ratio, building lot coverage or building height but is intended to allow additional units within the building parameters than otherwise permitted by the district.

(13) Building heights shall not exceed the height limits imposed by the Maximum Height Map. For those properties shown with a two story maximum, the maximum building height shall be thirty (30) feet; for those properties shown with a three story maximum height, the maximum building height shall be forty-two and a half (42.5) feet; for those properties shown with a four story maximum height, the maximum building height shall be fifty-five (55) feet; for those properties shown with a five story maximum height, the maximum building height shall be sixty-five (65) feet and for the properties shown permitting up to eight stories, the maximum height shall be ninety-five (95) feet. For any property not shown on the Maximum Height Map, the maximum building height shall be fifty-five (55) feet. Unless specifically approved by the City Commission based on compatibility with adjoining properties, where buildings are developed at lesser building stories than might otherwise be permitted by the Maximum Height Map, those buildings shall conform to the maximum height as outlined above for the applicable stories. For example, if a two story building is developed within an area designated as permitting a four story building, the two story building shall conform to the thirty (30) foot height limit. Parking garage levels shall be counted as stories for each level except for any basement level or the open roof level. Parapet walls or mansard walls functioning as parapet walls, may be added to the building, but shall not exceed more than five (5) feet above the building roof height, limitation outlined above. Mechanical equipment, elevator towers, and related non-occupied structures may be added to the building roof height, but in no case shall exceed more than ten (10) feet above these building roof height limitations, and shall be located and screened to the maximum extent possible so that they are not visible from the street. Architectural appendages, embellishments and other architectural features may be permitted to exceed these roof heights specified, on a limited basis encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet above the maximum building roof heights detailed above, upon approval of the City Commission.

(14) Any above grade parking garages or decks constructed within this district must be at least one hundred (100) feet away from any single family or low density residential zoned property

(15) Whenever the rear or side property lines within this district share a common property line with parcels zoned residential, either a solid wall or fence (other than wood) shall be provided along the entire common line. The wall or fence shall be six (6) feet in height; except that such wall or fence shall be only three (3) feet in height from the front setback line of the adjoining parcel to the front property line of the adjoining parcel.

(16) Other code sections related to development that should be referenced include but are not limited to Off-street Parking Regulations, Maximum Height Map, General Provisions, Definitions, Sign Regulations (Article IV), Environmental Protection (Article V) (this section includes Division 1 Storm Water, Division 6 Tree Preservation, Division 8 Landscape Regulations Division 9 Irrigation Regulations and Division 10 Exterior Lighting), Subdivision Regulations (Article VI), Historic Preservation (Article VIII) and Concurrency Management Regulations (Article II).



## **Sec. 58-84. General Provisions for Non-Residential Zoning Districts.**

(a) *Suitability of buildings.* Any proposed non-residential building shall be considered as to its suitability of design and type of construction in relation to the district and to the immediate neighborhood site, and if such design or construction is markedly incongruous with the character of such neighborhood as to be detrimental to the value of adjacent or nearby properties, then the building director shall deny the application for a building permit.

(b) *Grading of building site.*

(1) Every lot which is used for a building site shall be so graded that it will be dry and free from standing water and the grade around the walls of every new building at the point where the sill meets these walls shall not be less than 12 inches above the crown line established or to be established for the street on which such a building faces, unless the lot has drainage away from the street to the lake or canal or has other adequate means of drainage as may be checked and approved by the city engineer at the request of the city building and zoning official. If the street on which the lot faces has a slope between lot lines, an elevation half-way between the high and low points is to be used for determining the height of crown line.

(2) No lot owner shall grade his lot in such a way as to interfere with the natural drainage of adjoining lots or divert the drainage of his lot onto adjoining lots nor to interfere with the natural drainage of any lot so that the drainage of such lot is diverted upon any public street or thoroughfare in such a manner or in such amounts as to flood such public street or thoroughfare.

(c) *Architectural towers, spires, chimneys, or other architectural appendages, etc.*

(1) Any architectural tower, spire, chimney, flag pole or other architectural appendage to a building shall conform to that districts height limit. However, when necessary to meet the building code requirements, chimneys may exceed the height by that minimum required distance.

(2) If provided for within the respective non-residential zoning district, architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in that section, on a limited basis encompassing no more than thirty (30) percent of the building roof length and area, up to eight (8) feet of additional height upon approval of the City Commission, based on a finding that said features are compatible with adjacent projects. For any such approval not part of a conditional use request the planning and zoning commission will review the plans at a public hearing after notification of such request is mailed to all owners of property within 500 feet. The planning and zoning commission will make a recommendation to the city commission for their final decision.

(3) See subsection 58-427(b) (7) for the regulations for alternative cell tower structures.

(d) *Mechanical penthouses, rooftop mechanical and air conditioning equipment, stair tower enclosures, elevators and parapets.* Mechanical penthouses, mechanical and air conditioning equipment, stair tower enclosures, or elevators on rooftops of buildings shall not exceed a total height of ten (10) feet above the allowable building height. Any penthouses shall only be used for mechanical equipment to serve the building. Parapets or mansard roofs serving as parapets may extend a maximum of five (5) above the height limit in the zoning district unless other parapet heights are more restrictive for the respective zoning district. In addition, mechanical

equipment and air conditioning equipment on rooftops shall be screened from view from ground level on all buildings in all zoning districts and shall be located to the maximum extent possible so that they are not visible from any street.

(e) *Parking of commercial vehicles.*

(1) The regular or constant parking of commercial vehicles or vehicles used primarily for commercial purposes, or vehicles having outside lettering larger than three square feet in area per side displaying information identifying a business, product or service, including trucks (with a rated capacity over one ton), semi-trailers, truck tractors or any combination thereof or any other truck or special mobile equipment or heavy equipment, building materials and other similar materials is not permitted within the office (O-1) and office (O-2) district. In all other non-residential zoning districts, the parking of commercial vehicles and storage equipment and materials is only allowed where specifically permitted under the uses of that zoning district.

(2) Exceptions. The provision of this section shall not apply to:

a. Property where construction is underway, for which a current and valid building permit has been issued by the city, as to those vehicles and equipment actively engaged in such construction;

b. Those vehicles and equipment being used to perform lawful work upon the premises where the vehicle is parked, including immediate pick up or delivery service;

c. Any vehicle, with a capacity rating under 10,000 pounds, that is parked entirely inside a garage and not visible from the street or from surrounding properties;

d. Political signage on vehicles as otherwise permitted by the sign regulations.

(f) *Projections into setbacks.*

(1) Eaves, roof overhangs, open fire escapes, balconies, canopies, and awnings may project into the minimum yard or setback areas up to 3 1/2 feet, except as otherwise permitted in the C-2 district. Chimneys and flues may project into the minimum yard or setback area up to three feet. Fabric canopies, awnings, etc. with ground supports are considered a structure and shall observe the setback requirements of the districts in which they are located. Bay windows may project two feet into the front, street side yard and rear setbacks and are limited to a maximum width of eight feet. Second floor open porches, two-story high columns or similar features shall not project into the required front setback or street side setback.

(2) Air conditioning equipment, swimming pool equipment and electric generators shall not be located in any front yard or side yard with street frontage unless totally shielded from view from the street by shrubbery or walls and fences otherwise complying with the zoning code. Air conditioning equipment may be located up to ten (10) feet from a rear lot line as long as they are adjacent to the accessory structure or principal structure. Air conditioning compressors and electric generators shall not be located in any side yard or within ten (10) feet from the rear lot line except that they may be permitted six (6) feet from a side or rear property line if written permission is granted by the adjacent property owner. Any air conditioning equipment placed on a roof must be screened from view from surrounding properties and from public streets.

(g) *Corner lot setbacks.*

(1) *Front of lot.* For corner lots, each side with street frontage shall be considered a street front for setback purposes. On such lots with two street frontages, the lot shall have two (2) front setbacks and two (2) side setbacks on the interior property lines. On lots with three (3) street frontages, the lot shall have three (3) front setbacks and one (1) side setback on the interior property line.

(2) *Through lots.* In case of through lots, front yards shall be provided on all street frontages.

(3) *Lots of unusual shape.* For any lots of unusual shape, not forming part of a general rectangular lot pattern, the building director shall prescribe front, side and rear yard setbacks as applicable.

(h) *Swimming pools and screen enclosures.* Swimming pools and pool decks constructed in non-residential districts shall be constructed in accordance with the Florida Building Code. The location of pools, pool decks and screen enclosures shall be located within the buildable area of any lot. Swimming pools and pool decks constructed adjacent to residential buildings shall be screened from the adjacent property by a six-foot solid brick or masonry wall. The setback to a lake, canal or stream shall not be construed as a side or rear setback. Instead, on lakefront lots, swimming pools and pool decks must be set back a minimum of fifty (50) feet from the ordinary high water elevations established in this article. On stream front or canal front lots, pool decks may be setback a minimum of twenty (20) feet from the canal bulkhead. Screen pool enclosures shall be regulated as structures and located only within the required setbacks.

(i) *Tennis courts.* Tennis courts shall be located within the buildable areas of any given property, except that they may be within ten feet of the rear property line. Their associated backstop and side fencing shall also conform to these setbacks and shall not exceed twelve (12) feet in height. The composition of this fencing shall be chain link or other decorative fencing that does not impede the flow of air and which received the approval of the building director. The location of tennis courts, the composition and height of tennis court fences, the nature of any lighting and control of stormwater shall be subject to the approval of the code enforcement director.

(j) *Walls and fences.*

(1) *Permits.* Requests for permits for walls and fences must be accompanied by a site plan and drawings clearly showing the locations, heights and materials for which approval is requested.

(2) *Height in nonresidential districts.* On all street frontages, walls and fences shall not exceed three (3) feet in height except when setback at least ten (10) feet from the property line. At or beyond that ten (10) foot setback or on other side or rear property lines, fences or walls may be up to six feet in height. No wall or fence shall be permitted which would in any way obstruct or impair the visibility of automobiles at intersections and points of ingress and egress to the public right-of-way.

(3) *Designs and materials permitted in nonresidential districts.* Fences or walls in nonresidential districts located within the front half of the lot shall not be constructed of chain link, chicken wire, wood (except decorative open pickets) or other similar or non-decorative materials. In any nonresidential districts, except industrial districts, barbed wire may not be

incorporated in or used as a fence. Any barbed wire used within industrial districts shall be placed so that it does not project outward over any street, sidewalk, public way, or adjacent property. Fences and walls within nonresidential districts shall be designed and constructed so that adequate access to buildings is maintained for firefighting purposes.

(4) Walls shall be finished on both sides with similar architectural treatments and color on both surfaces so that, for example, a brick veneered masonry wall shall have brick veneer on both sides or a stuccoed masonry wall shall have a stucco finish on both sides, unless different surface treatments and color are agreed upon by the property owners on both sides of the wall and the administrative official.

(k) *Land and building uses seen generally.* It is intended that all buildings hereafter erected, reconstructed, altered, enlarged, moved or maintained, and any existing building and the land upon which it sits shall be used only for the purpose permitted in the zone in which such building or land is located, and then only after applying for and securing all permits and licenses required. If any use is for any reason omitted from the list of those specified as permissible in each of the various districts designated in this article, or if ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of the article, a person may file a request for inclusion of a particular use within a particular district or for an interpretation if any ambiguity arises with the building director. It shall be the duty of the planning and zoning commission to ascertain all pertinent facts concerning such use and by resolution of record set forth its findings and the reasons for designating a specific classification for such use. Such findings and resolution shall be referred to the city commission and, if approved by the city commission, thereafter such designated classification shall govern.

(l) *Solid waste containers.* Prior to the issuance of a building permit, plans for the construction of any commercial, office, industrial, planned development or any other non-residential buildings must show the location of container(s) for solid waste disposal. The number of containers, their location and access to them for unloading purposes are subject to the approval of the city. Solid waste containers or dumpsters shall be screened from view of surrounding properties for all new development. Recycling containers may be exempted from this requirement by the city.

(m) *Relocation or moving a building.* (See general provisions for residential districts for applicable regulations).

(n) *Curb cut permits.* Any proposed construction in zoning districts other than R-1AAA, R-1AA, R-1A and R-2 shall have its access points or curb cuts for off-street parking facilities approved by the building director. In all such cases where that use has an access point or curb cut onto one public street, no additional curb cuts may be made onto another public street without the approval of the building director. His approval shall be based on a finding that no additional traffic will be directed onto local residential streets.

(o) *Vehicle/boat sales.* There shall be required a minimum lot/parcel size of 10,500 square feet for any automobile/truck/motorcycle, other vehicle or boat sales business. This shall apply to new, used and leased vehicles or boats. It shall not apply to rental business providing daily-weekly rentals. In cases where vehicle/boat sales operations are proposed, the city shall use as guidance a ratio of one vehicle/boat on sale or display for every 560 square feet of net usable area in order to provide adequate space for employee/customer parking and to preclude excessive congestion of the property.

(p) *Satellite dish antenna.*

(1) Satellite dish-shaped antennae are permitted as accessory structures for properties within the nonresidential districts of the city. The number, location, and size of all satellite dishes on such properties shall be first subject to the site plan approval by the code enforcement director to insure that such satellite dishes are located in a manner to be not visible from any public street or visible as little as reasonably possible.

(2) A building permit shall be required for the installation of all satellite dishes so as to precipitate inspection for compliance with this section and for anchoring in accordance with the requirements of the building code.

(3) The above regulations shall only apply to satellite dish antenna greater than one (1) meter in diameter.

(q) *Underground utilities.*

(1) It is the intent of the city to improve the aesthetic appeal of the city and the reliability of utility service by requiring that utility lines such as electric, telephone, cable TV, fiber optics and other utilities, be placed underground in conjunction with the construction of all new buildings. The implementation of underground utilities shall also be required as a component to the substantial renovation of any existing building. Substantial renovations shall be interpreted as when the building permit value of such renovations and/or additions exceeds fifty (50%) percent of the value of the existing improvements on the most current property tax roll. Property owners shall provide space on-site within the private property or within the building for any necessary pad mounted transformers and switch gear and shall screen such to the degree possible with landscaping or other approved screening when visible from the public right-of-way.

(2) The city recognizes that certain physical elements such as existing buildings, swimming pools, large trees and such may impose unreasonable hardships on property owner's compliance with the placement of utilities underground and for the location of transformers. Upon confirmation of these hardships by the utility companies, the building director may waive this requirement for such projects or may allow the waiver of up to two (2) required parking spaces to be used for the required pad mounted transformer and switch gear.

(r) *Display of merchandise outside commercial buildings.* One display of merchandise may be located outside of a commercial business exclusive of beautification elements such as plants (that are not for sale). This display must be placed within two (2) feet of the front wall or window of the building. This display must not block or impede pedestrian traffic or be placed on the public sidewalk and at least six (6) feet of clear sidewalk width must remain for pedestrian traffic. This display must be no more than six (6) feet in height and no more than two (2) feet in width. The display must be safely secured and removed under windy conditions. The display must be removed when the business is not open. An outside display is not permitted if the business chooses to place an outdoor portable sign.

(s) *Significant changes to buildings or approved plans.* Various sections of this zoning article require approvals by the planning and zoning commission and/or city commission. Within the section for conditional uses there are specific requirements defining significant changes for conditional uses. For all other types of approvals, the standards below will determine whether a significant change or substantial deviation shall be deemed to have occurred which then would

require a subsequent review and approval for those changes by the planning and zoning commission and/or the city commission as follows:

- (1) When there is an increase in the height of a building of more than one (1) foot; or
- (2) When there is an increase in the square footage of a proposed building of more than 250 square feet; or
- (3) When there is an increase in the impervious lot coverage of more than 500 square feet; or
- (4) When there is a change in the architectural style of the building; or
- (5) When there is a major shift or relocation of the site and floor plan(s) or distribution of uses within the building or major shift or relocation in the features of building location, storm water retention, parking area and/or driveways; or
- (6) When additional variances are requested that were not part of the original public record in the review by the planning and zoning commission and/or the city commission; or
- (7) When the planning director, building director or city commission believe a material change has been made to a plan detail that was critical to the consensus or decision made by the board or commission.

(t) *Tents.*

- (1) The use of tents is limited to the following:
  - a. Social events or approved special events on private property;
  - b. Special events on public property approved by the city;
  - c. Special events on property owned by a nonprofit organization;
  - d. New and used car lots for special sales events.

(2) Additionally, the size and location of tents shall be subject to review and approval based on consideration of parking, obstruction of traffic, interference with landscaping and similar issues. All tents must be removed within seven days. No property may erect a tent more often than once in any three-month period. Prior to the erection of a tent, a permit must be obtained and compliance with the city building and fire codes is required.

(u) *Special event.*

(1) *Definitions.*

a. *Special event* means any occasion including but not limited to exhibitions, celebrations, festivals, shows, and other activities taking place within a specifically-defined area of the city for a period of time not to exceed three days (or longer, if approved by the city), which occasion or activity does not fall within the normal categories of permitted uses or accessory use within the applicable city zoning district. Special events may include activities to be conducted entirely on city property when deemed necessary to utilize this process by the city.

b. *City manager* means the city manager of the city, and includes the city manager's designee or authorized representative.

(2) *Permit required.* It shall be unlawful for any person to advertise, hold, conduct, engage in, permit or allow any special event to occur unless he has first obtained a permit from the city. All permits shall be issued in conformity with the requirements of this subsection and any regulations established by the city.

(3) *Application for permit.*

a. The application for a special event permit shall contain all information relevant and necessary to determine whether a particular special event permit may be issued, including but not limited to:

1. The applicant's full name, current address, telephone number, and proof of identity;
2. A full and complete description of the special event or activity to take place, the duration of the special event, the specific location at which the special event will be conducted, and a plan detailing the general layout of the special event and activities on the site for the special event;
3. An estimate of the anticipated attendance and proposed arrangements to provide fully for all off-street parking on the site of the special event or on adjacent property;
4. A description of proposed use of temporary structures, including a description of each temporary structure, its proposed use and placement, and the dates and duration of each proposed placement;
5. A proposed plan for dealing with sanitation including disposal of waste and refuse as well as placement of portable toilet facilities if applicable;
6. The necessity for closure of public streets or sidewalks and the proposed dates and necessary duration of such proposed closures;
7. Proposed utilization of city equipment and city facilities, if applicable;
8. A hold harmless agreement in favor of the city executed by an authorized representative of the applicant;
9. Proof of general liability coverage in such amount as the city may determine based upon the location, duration and nature of the special event. Upon request, the city may require that the applicant provide a certificate of insurance naming the city as an additional insured;
10. Any additional information which the city may require to accurately assess the impact of the special event on the city.

b. The application for a special event permit shall constitute an agreement by the applicant to pay for city personnel expenses and services provided by the city, including all repairs, renovations, landscaping and turf restoration or replacement, which is necessitated by virtue of the special event.

c. The application for a special event permit shall constitute a covenant between the applicant and the city, specifying that the applicant will halt or interrupt its special event upon notification



by an official representative of the city. The city covenants not to halt or interrupt the special event unless in its discretion it perceives the special event activities shall cause or coincide with interference with traffic movement, disturbance of the peace, destruction of property, violation of the law, a threat to the public peace, health, safety or welfare or not appropriate for the zoning of the property.

d. The application for a special event permit shall constitute an agreement by the applicant that applicant shall limit signage regarding the special event to one temporary sign no larger than 32 square feet in area and one banner sign measuring two feet by 18 feet or less in size, placed on display not more than four days before the start of the event and removed before the end of the event and not placed within the public street right-of-way or public property.

(4) *Approval.*

a. *Criteria.* The city may approve or conditionally approve the issuance of a special event permit upon application, unless one of the following circumstances exist:

1. The applicant has been convicted of a felony or a misdemeanor involving moral turpitude and has not subsequently demonstrated rehabilitative characteristics.
2. The applicant has made a material misrepresentation in the application.
3. The applicant has not complied with the city's request for further information necessary for the city to fully evaluate the application.
4. The proposed special event will substantially disrupt the peace and quiet within any area of the city.
5. The proposed special event will have a substantial negative impact upon traffic within any area of the city.
6. The proposed special event in any way damages or degrades the image of the city.
7. The proposed special event will have a material negative impact upon neighboring properties.
8. The proposed special event will create a safety hazard.
9. The proposed special event is not appropriate for the location due to zoning requirements for that location.
10. The proposed special event subjects the city to contingent liability which cannot adequately be addressed by requiring the applicant to name the city as an insured on the applicant's general liability insurance policy.
11. The special event is of such a nature that the city manager determines the applicant must provide the city with a certificate of insurance naming the city as an additional insured, and the applicant has failed to provide such a certificate.
12. The special event fails to comply with any of the criteria designated under this article for issuance of a special event permit or rules and regulations governing the special event.

13. If the application is for a renewal of a special event permit, the applicant has violated conditions of the previous permit or ordinances and regulations of the city in the conduct of the prior special event.

14. The special event proposes to use public rights-of-way, parks, or other city property or seeks to have special exceptions made for the event including, but not limited to such things as waiver of the duration requirements. Such proposed events on city property or requests for waiver must be approved by the city commission as set forth in subsection (4)c., below.

b. *Conditional approval.* The city may condition the approval of an application upon the applicant's agreement to:

1. Notify surrounding property owners of the event.
2. Obtain letters of approval from surrounding property owners of the event.
3. Hire off-duty police officers for traffic or crowd control.
4. Limit the duration of the event, including hours that the event is taking place and the number of days that the event is to be conducted.
5. Comply with any other condition or conditions requested by the city manager to ensure or protect the health, safety, or welfare of the general public.

c. *City commission approval.* Any application for a special event which proposes to use public rights-of-way, parks, or other city property or to have exceptions made from the requirements for special events may be referred to the city commission for approval. The city will, however, review the application and make a recommendation to the city commission either orally or in writing as to whether the city commission should approve the applicant's application.

(5) *Limitations.*

a. There shall be no more than two special event permits granted with reference to any single property of an applicant during a given calendar year, unless approved by the city commission or city manager. The type of event referenced in this paragraph refers to having two of the same or similar type events and is not intended to prohibit an entity such as a non-profit organization from having different types of fund raisers throughout the year.

b. No special event permit shall be issued with reference to a particular location if either the city staff or city commission determines that the special event at that location would, in any way, adversely affect the public health, safety, or general welfare of the citizenry, community or environment of the city.

(6) *Fees; deposit for city personnel and extraordinary service fee.*

a. Upon issuance of a special event permit, the permittee shall pay to the city the applicable special event permit fees as established by the city.

b. The city shall recover its reasonable expenses for city personnel utilized and services rendered in connection with the special event. Such costs shall include but not be limited to

charges for personnel and equipment committed in support of the special event. Based on the information contained in the permit application and such consultations as may be required with the applicant, an estimate of these costs will be provided to the applicant at the time of his application before the permit is approved. Prior to issuance of a special event permit, the permittee shall deposit with the city the amount of these estimated costs.

c. At the conclusion of the special event, any additional permit fees required in excess of those paid at the time of issuance of the permit will be paid to the city by the permittee, and any excess permit fees paid by the permittee will be refunded by the city.

d. The issuance of a special event permit shall not operate to waive the payment of any prescribed fees for the use of city facilities, and the permittee shall be required to pay the applicable charges and deposits, if any, as established by the city for the use of its city facilities.

(7) *Denial; term; revocation or suspension.*

a. *Denial of a permit.* Where the special event permit is denied, the applicant shall be notified in writing by mail within ten days of the denial and the reasons therefore.

b. *Appeal procedure.* The decision of the city upon a denial of a special event permit application of a special event permit may be appealed to the city commission by written notice thereof filed with the city manager within 30 days of the date of the written decision of the city.

c. *Term.* Special event permits issued pursuant to this article shall be effective for the stated purpose from the date of issuance through the date specified in the permit.

d. *Revocation or suspension.* A special event permit may be revoked or suspended for any of the following reasons:

1. A material false statement contained in the application;
2. Failure to comply with federal, state, or municipal laws and regulations;
3. Failure to comply with any limitation or condition imposed by the city on the issuance of the special event permit;
4. Failure to operate the special event activity in accordance with such ordinances, laws, orders, rules and regulations as may be applicable;
5. Conducting the special event in such a manner as to create a public nuisance; or
6. Conducting the special event activity in a fraudulent or disorderly manner or in a manner which endangers the public health, safety, welfare or in any manner which disrupts the public peace.

(8) *Notice of hearing and grounds for suspension and revocation.* Prior to the suspension or revocation of a special event permit, the permittee shall be notified in writing of the grounds for suspension or revocation of the permit, and the hearing shall be held before the city manager or his designee thereon. Notice of the hearing shall be given to the permittee at least two days prior to the hearing.

(9) *Emergency temporary suspension.* If the conduct or activity of the permittee creates a public nuisance or an eminent peril to the environment or the public health, safety, or welfare, the special event permit may be summarily suspended upon notice to the permittee. The permittee shall be entitled to a hearing within seven days thereafter and any temporary emergency suspension shall not exceed 15 days pending a hearing under the proceeding section.

(10) *Conduct of hearing on suspension or revocation.* The hearing before the city manager on the suspension or revocation of a special event permit shall be conducted to allow the permittee the right to be heard and to call witnesses on the permittee's behalf.

(11) *Decision after hearing on suspension or revocation.* The decision of the city manager shall be rendered within ten days of the close of the hearing on the suspension or revocation of the special event permit. The decision shall be in writing and shall set forth the findings of fact and conclusions of law underlying the decision, and the permittee shall be notified of the decision in writing within days of the date of the decision.

(12) *Appeal procedure.* The decision of the city for suspension or revocation of a special event permit may be appealed to the city commission by written notice thereof filed with the city manager within 30 days of the date of the written decision of the city.

(w) *Home occupations.* (See general provisions for residential districts for applicable regulations that also apply to all residential units within buildings in non-residential districts).

(x) *Restaurant, bar, tavern, lounge; conditional uses in the Hannibal Square neighborhood.* The city has established that restaurants, bars, taverns or lounges, in the Hannibal Square Neighborhood Commercial District shall be limited in the hours of sale and consumption of alcoholic beverages due to the proximity of residential homes and apartments and the related problems of nighttime activity and noise generated by these establishments and their customers outside the establishments. This restriction shall be in effect within the geographic area of the Hannibal Square neighborhood bounded by Denning Drive, Comstock Avenue, New York Avenue and Webster Avenue. The restriction shall limit the hours of sale and consumption of alcoholic beverages to no later than 11:00 p.m. on Sundays through Thursdays and no later than 12:00 a.m. (midnight) on Fridays and Saturdays, except for New Year's Eve when the hours are extended until 1:00 am.

(y) *Short term rental of residential units.* The rental or use of any residential units for less than one month shall be prohibited. Time shares or fractional ownership is prohibited.

(z) *Construction tolerances.* The city's building director may permit setback encroachments up to six inches upon request in writing on a sworn affidavit from the property owner attesting to the cause or reason for the error relating to technical reasons that is subject to acceptance by the city.

(aa) *Affordable and workforce housing density bonus.* The development of affordable and workforce housing is a priority of the State Comprehensive Plan and the City's Comprehensive Plan. As such, in some cases incentives are necessary to insure the provision of affordable and workforce housing especially within Winter Park with extremely high land costs, along with typical construction costs. The City Commission on a case by case basis may permit the maximum densities within the zoning districts to be exceeded by up to five units per acre when such allowances are used exclusively for the construction of affordable or workforce housing.

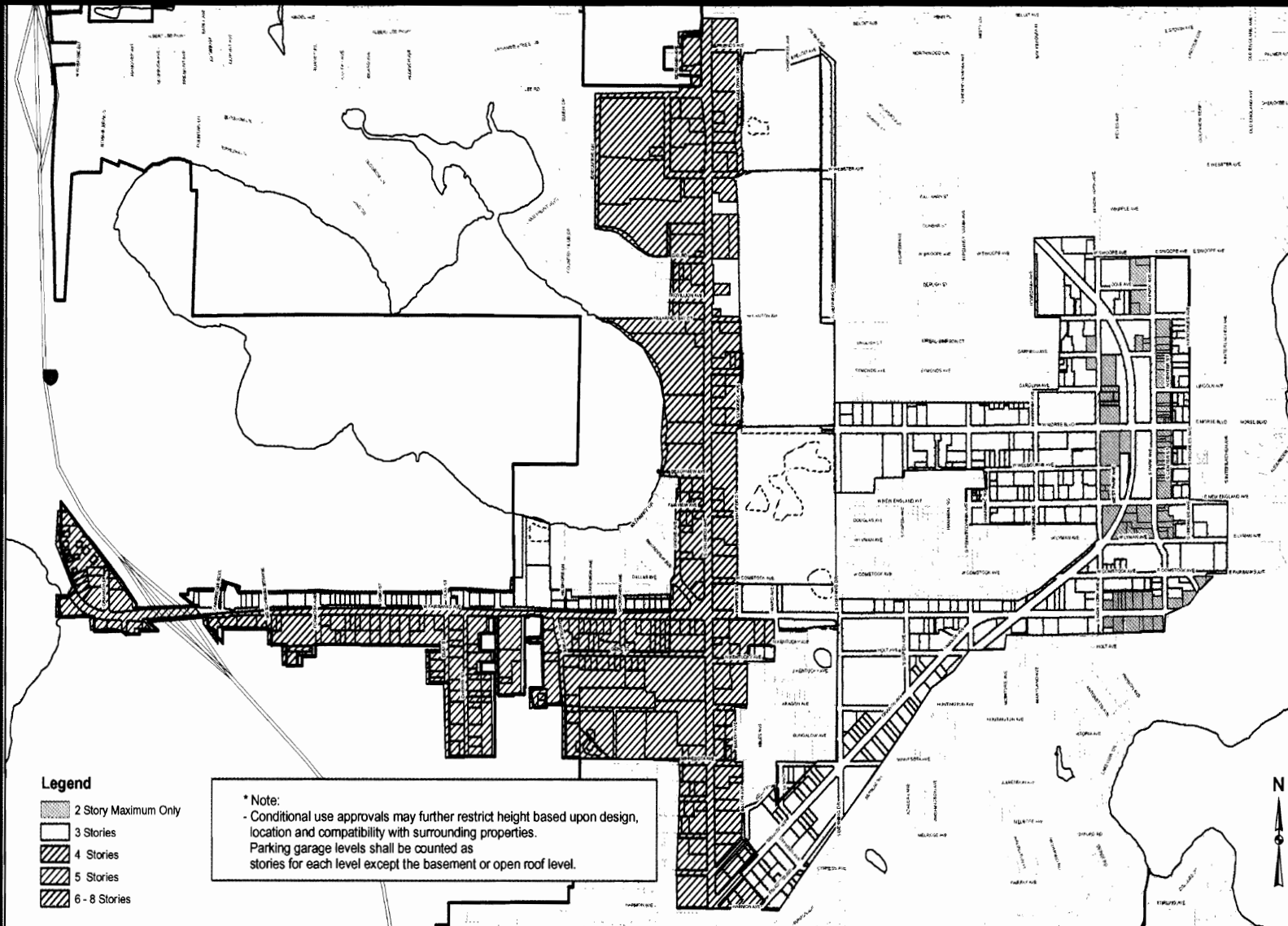
This incentive shall not permit additional floor area ratio, building lot coverage or building height but is intended to allow additional units within the building parameters otherwise permitted by the respective zoning district.

(bb) *Parking garage setbacks.* Any above grade parking garage or parking deck shall be setback at least one hundred (100) feet from any property used for single family or low density residential. The distance shall be measured from the closest point of the parking garage structure to the property line of the single family or low density residential property.

(cc) *Gateway plan conformance.* Pursuant to the desire to provide attractive entrance features and architectural interest at the gateway entrances into the City, the City Commission shall have the authority in the review of plans for the development or redevelopment of properties to require negotiate for a portion of such property to be reserved for the construction of gateway design structures, and the City Commission may negotiate, on a case by case basis depending on the size of the project, a financial arrangement between the developer and the City to facilitate the construction of gateway design structures.

## **Sec. 58-85. Maximum Height Map Regulations.**

- (a) **Purpose and Intent:** Notwithstanding the other applicable regulations within this Article, this section is intended to establish special regulations and provisions governing building height which supplement the zoning height provisions outlined within the Multi-Family (R-4), Office (O-1), Office (O-2), Commercial (C-1), Commercial (C-2), Commercial (C-3), Commercial (C-3A), Limited Industrial (I-1), Planned Development (PD-1 and PD-2) and Public, Quasi-Public (PQP) zoning districts by virtue of the adoption and establishment of a Maximum Height Map. These regulations provide for and encourage compatible heights and densities in accordance with the Comprehensive Plan.
- (b) **Application:** These height overlay regulations shall be applied to the areas designated office, commercial or other non-residential zoning districts as depicted on the Maximum Height Map. Except within the Central Business District, these provisions are not intended for areas designated residential in the Comprehensive Plan. However, these provisions may be utilized to allow residential uses to be developed within a project, provided the underlying zoning designation is limited to one of the districts outlined in subsection (a).
- (c) **Maximum Height Map adoption and implementation:** Notwithstanding the heights as expressed in feet dimension as specified within the zoning districts' regulations, any property depicted on the Maximum Height Map, shall be restricted to the maximum number of building stories as set forth on that Maximum Height Map. In other words, in the event of any conflict between the Maximum Height Map and the heights allowed within the individual zoning districts' regulations, the Maximum Height Map governs. Mezzanine or loft levels shall be considered an additional story. Parking garage levels shall be counted as stories for each level, except for any basement or open roof top level.



**MAXIMUM HEIGHT MAP**





## **Sec. 58-86. Off-Street Parking and Loading Regulations.**

*General.* At the time of the erection of any building or structure or at the time the property undergoes a change in use, or at the time any building or structure is enlarged or increased in capacity by the addition of dwelling units, guest rooms, square footage, floor area, seats, then the minimum off-street automobile parking spaces with adequate provisions for ingress and egress by automobiles of standard size shall be provided in accordance with the following requirements. These requirements should be considered the minimum requirements. The owners of each individual building or structure must assess their individual needs and provide sufficient parking spaces to accommodate their needs if they should exceed the required minimum established by this article. If desired, a property owner with a parking lot larger than twenty parking spaces may divide up to two parking spaces into four spaces to accommodate motorcycles or scooters. Parking lots are intended to meet the parking requirements for both the employees of the building and users of those buildings. As such, no property owner or tenant may prohibit by signage or policy the use of parking lots by their employees, unless remote off-site parking within 1,000 feet of the business is provided to such employees. Within the Central Business District, or any other location where parking is inadequate for any particular business, when there exists public parking lots or public parking garages, employees should be required to park within those off-street public parking facilities and not be permitted by the business to utilize on-street parking.

(1) *Central business district exclusion.* The following described area shall be known as the central business district for the provision of off-street parking spaces, and shall be exempt from furnishing parking facilities, as required by this article. This exemption is made because of the traditional exclusion from providing parking in central business districts and the existing development within the district. Property owners, however, are encouraged to provide off-street parking space whenever possible.

Begin at the intersection of Lyman and New York Avenues, run thence east on Lyman Avenue to Knowles Avenue, thence north on Knowles Avenue to Canton Avenue, thence west on Canton Avenue to New York Avenue, thence south on New York and Lot 1-4, Block 14; Lots 1-4, Block 15, all Block 66; Lots 1-10 and 22, 23, Block 76; and Lots 1-8, Block 77, Town of Winter Park according to the plat thereof recorded in Public Records of Orange County, Florida.

a. The foregoing exclusion shall apply only to existing square footage or floor space. Parking shall be provided as required by this section for any new building or new floor space created by additions, alterations or remodeling. Existing parking spaces may be counted to satisfy this requirement only where such existing spaces are in excess of the parking space requirements of this section for any existing floor space.

b. The foregoing exclusion shall not exempt properties within this exclusion area from compliance with subsection "Location of parking lots", which prohibits the use of remote leased parking to satisfy the parking requirements of any new building or new floor space.

(2) *Hannibal Square district exclusion.*

a. The following described area shall be known as the Hannibal Square district for the provisions of off-street parking spaces and shall be exempt from furnishing parking spaces and shall be exempt from furnishing parking facilities as required by this article. The Hannibal Square district shall include Lots 5-10, Block 42, Lots 11-13, Block 41, Lots 1-6 and 11-12,

Block 54 and Lots 8-10, Block 55, Town of Winter Park according to the plat thereof recorded in Public Records of Orange County, Florida.

b. On properties within this district that have existing buildings, as of January 1, 1998, the foregoing exclusion shall apply only to existing building square foot area. Such existing building square foot area may be renovated, reused and redeveloped even if it involves the demolition and subsequent reconstruction of a same size to the existing building square foot area without providing any off-street parking spaces. However, this exclusion shall not apply to additional building square footage. Parking shall be provided, as required by this article, for any increase in building square foot area. Existing parking spaces may be counted to satisfy this requirement only where such existing spaces are in excess of the parking space requirements of this article for any existing building square foot area.

c. On properties within this district that are vacant, as of January 1, 1998, the foregoing exclusion shall be limited to the square footage of new building equal to forty-five (45%) percent of the lot area. Parking shall be provided, as required by this article, for any additional building square foot area above the credit provided for the forty-five (45%) percent of the lot area. In calculating this credit, the entire building's parking demand shall be reduced on a pro-rata basis for different uses within the building.

(b) *Specific requirements for various uses and buildings.* Listed below are the minimum parking spaces required for various buildings and uses. When the computation results in a requirement for a fractional space, a fraction of one-half or less shall be disregarded. When the fraction exceeds one-half, one additional off-street parking space will be required. Parking spaces, other than handicapped spaces, shall be nine (9) feet wide by eighteen (18) feet deep. Variances to reduce the size of parking spaces are prohibited.

1. *Motor vehicle repair business:* Two and one-half spaces for each repair/service bay and one space for every 250 square feet of office or customer area.

2. *Beauty salons—barbershops or cosmetic treatments:* One parking space for every 250 square feet of floor area.

3. *Bed and breakfast inns and boarding houses:* One parking space for each guest room plus one additional parking space for owner/manager and each staff or service personnel.

4. *Churches, non-profit organizations' halls/lodges, fraternal organizations or private clubs:* One parking space for each four seats plus one parking space for each official resident on the premises plus additional parking spaces equal in number to 50 percent of the number of permanent employees.

5. *Commercial recreational uses:* One space for each 250 square feet of gross floor space. Where bowling alleys are provided, there shall be three spaces for each alley. Where tennis courts, racquetball/handball courts are provided there shall be three spaces for each court.

6. *Community centers, post offices, etc.:* One space for each 250 square feet of gross floor space.

7. *Convalescent, nursing, assisted living and other institutions:* One parking space for each three patient beds, plus one parking space for each staff or visiting doctor (average) on the day shift.

8. *Furniture and appliance store*: One parking space for every 400 square feet of floor area.
9. *General business and retail commercial*: One parking space for each 250 square feet of gross floor space in the building.
10. *Gymnasiums or stadiums (operated by high schools, public recreation departments, commercial and nonprofit)*: One parking space for each four seats, provided, however, that the requirements for off-street parking spaces with respect to gymnasiums shall not be applicable if the gymnasium is located on a school campus and the school has met the requirements for off-street parking space for the school auditorium located on the same high school campus.
11. *Hospitals*: One parking space for each three patient beds (excluding bassinets), plus one parking space for each employee, contract personnel, volunteers, etc. including part-time employees, expected on the most populated work shift.
12. *Industrial and manufacturing uses*: One parking space for each 500 square feet of gross floor space in the building.
13. *Laundromats*: One parking space for every two washing machines.
14. *Library*: One parking space for each 375 square feet of gross floor space in the building.
15. *Medical and dental offices and clinics*: One parking space for each 200 square feet of gross floor space.
16. *Motels or hotels*: One parking space for each guest or sleeping room. Auxiliary facilities such as restaurants, cocktail lounges, etc. shall provide parking spaces for that use over and above the spaces provided to meet the lodging room requirements.
17. *Museums*: As determined by the city commission on a case-by-case basis based on the square feet of the building.
18. *Office, professional or public buildings*: One parking space for each 250 square feet of gross floor space in the building, or one parking space for each 220 square feet of gross floor space excluding areas of common public use and circulation. In computing the latter requirement the exclusion is to be used for public stairs, elevators, lobbies, arcades and atriums but not for common restrooms, mechanical areas or hallways beyond 20 feet from the lobby area.
19. *Office/showroom/warehouse*: One parking space for each 350 square feet of gross floor space in the building devoted to office/showroom/use and one parking space for each 700 square feet of gross floor space in the building devoted to storage space.
20. *Residential dwellings*. Two spaces per dwelling unit for any residential project of two units or less. Two and one-half spaces per dwelling unit for any residential project of three units or more. The planning and zoning commission may recommend and the city commission may approve variances to these provisions where conditions warrant.
21. *Restaurants, nightclubs, taverns or lounges*: One parking space for each 50 square feet of floor space for patron use on the premises or one space for every three seats, whichever is

greater. However, within the central business district and within the hannibal square neighborhood commercial district, the minimum requirement shall be one space for every four seats.

22. *Schools (senior high, colleges, universities):* One parking space for each teacher, administrator, and employee, plus one parking space for every (two) students, plus sufficient off-street space for safe and convenient loading and unloading of students, plus one parking space for each ten seats in the school or college auditorium, provided, however, if the school or college has a gymnasium and has provided off-street parking for that gymnasium, such spaces may be credited toward meeting the requirements for off-street parking for the auditorium located on the same campus.

23. *Schools (vocational, business, recreational, etc.):* One parking space for every two students or seats plus one space for each employee/staff person.

24. *Schools (kindergartens, day schools, etc.):* One parking space for every per employee plus sufficient off-street space for the safe and convenient loading and unloading of students.

25. *Schools (elementary and junior high):* One parking space for each teacher, administrator and employee on the school's staff, plus sufficient off-street space for safe and convenient loading and unloading of students.

26. *Theaters, auditoriums, funeral homes, and places of assembly with fixed seats:* One parking space for each four seats, plus additional parking spaces equal in number to the number of employees.

27. *Warehouse use:* One parking space for each 1,000 square feet of gross floor space in the building.

(c) *General provisions for off-street parking.* The off-street parking, loading and unloading requirements shall apply to all new structures or buildings or any existing buildings that may be altered or added to after the effective date of this article, except as otherwise provided in this article. The terms "existing spaces" or "existing parking facilities" used in this section shall mean all parking spaces servicing a particular building or use regardless of whether such spaces are located on the same property as the building or use or on another lot or property.

1. *Change in intensity of use.* Whenever a building or structure erected prior to or after the effective date of this article shall undergo any increase in number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measure specified hereinafter for required parking or loading facilities and further, when such increase would result in the requirement for additional parking or loading facilities through application thereto of the off-street parking regulations and off-street loading and unloading regulations of this article, such additional parking and loading facilities shall be provided accordingly. When a building or structure shall undergo any decrease in number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when such decrease would result in a requirement for fewer total parking or loading spaces through application thereto of the off-street parking regulations of this article, parking and loading facilities may be reduced accordingly, provided that the existing parking and loading facilities shall be so decreased only when the facilities remaining would at least equal or exceed the parking or loading requirements resulting from application of this article to the entire

building or structure so modified. At no time shall parking and loading facilities be decreased below the minimum requirements set forth in this article.

2. *Minimum distance and setbacks.*

a. *Multi-family and nonresidential districts.* Parking spaces shall not be located within the required front yard. Parking spaces may be permitted by the building director if there is compliance with the requirements of Section 58-345(e), "Vehicle use area landscaping." The building director shall withhold final inspection approval of all the improvements on the property until required landscaping is installed. Such landscaping shall be continually maintained by the property owner. Any wall or fence erected in conjunction with the landscaping shall observe the setbacks and height restrictions for that zoning district.

b. *Single family, duplex, cottage dwelling, garage apartment and similar uses.* Parking spaces established to meet the minimum requirements of this section shall not be located within any required front yard or required street side yard for the zoning district in which the parking spaces are located. Additionally, motorized vehicles shall not be parked on the grass, lawn, landscaped or unlandscaped areas (excluding approved driveway surfaces) along any street frontage and visible from the street. Parking must be provided within an area whose surface is specifically prepared for parking and surfaced with concrete, asphalt, brick or similar approved material delineating such parking space and must comply with the allowable impervious area for the property.

3. *Design, construction and operation of parking lots and parking garages.*

a. *Permit required.* A building permit shall be required for the construction of all parking lots. No application for a building permit for a new, enlarged or altered structure or improvement, or for a certificate of occupancy for a new use, shall be approved unless accompanied by a plot plan drawn to scale, showing the required off-street automobile parking facilities and improvements as specified herein; nor shall a permit be issued for the improvement of a parking area to serve as an accessory use to an existing building or buildings until a plot plan drawn to scale has been submitted in accordance with the provisions contained herein. Prior to approval, the plot plan will be reviewed and approved by the public works director for drainage; the parks and recreation director for landscaping; city traffic engineer for vehicular circulation on the lot and on adjacent streets; and the building department for meeting all the requirements of this article, including the adequacy of the parking lot to accomplish its purpose and the requirements of the Florida Building Code accessibility provisions.

b. *Surfacing and drainage.* The parking lot shall be surfaced with brick, asphalt, concrete or other similar surface. Storm water runoff from impervious surfaces shall be directed into storm water retention areas or facilities on the lot. All parking lots shall be designed to meet the storm water retention requirements of the St. Johns River Water Management District, when applicable or the city's storm water retention requirement to retain the first inch of runoff from all impervious surfaces by using grassed swales, gravel trenches, filtered recharge wells, bottomless inlets, perforated pipe or other methods of providing natural percolation. All plans must include clear engineering calculations showing the method of design, including soil information, and existing as well as proposed topography. Where light duty or infrequent use of the parking lot may make it desirable, the city may approve a grass or mulched surface. Should the use of this lot change appreciably, however, such that a grass or mulched surface is no longer adequate, the city may require the lot to be resurfaced with a more durable material. The location of individual parking spaces shall be clearly marked.

c. *Certificate of occupancy or business tax receipt.* No certificate of occupancy or business tax receipt will be issued after the completion of any building or addition which would require an increase in parking space or off-street loading and unloading space, unless and until all off-street parking and loading space requirements, shown on plans or made a part of the building permit, shall be in place and determined by the building director to be ready for use.

d. *Existing uses.* Nothing in this article shall prevent the reconstruction, repairing, rebuilding or continued use of any nonconforming building or structure existing at the effective date of this article which was damaged by fire, collapse, explosion or acts of God subsequent to such effective date.

e. *Dumpster space.* Every parking lot shall provide a space for a dumpster or other solid waste container unless said requirement is waived by the city.

f. *Location of parking lots.* Parking spaces provided pursuant to this section for any new building or building additions or increase in intensity of use, located in the area bounded by Swoope, New York, Fairbanks and Interlachen Avenues shall be on the same property as the principal building or on a remote, properly zoned lot within three hundred (300) feet that is in the same ownership as the principal building/property and permanently dedicated and recorded as committed to parking uses. For other properties located outside of this area, parking provided pursuant to this section may be located on a remote, properly zoned lot within three hundred (300) feet of the building, where such parking to be leased is in excess of the parking requirements for that building. Such distance shall be the walking distance measured from the nearest point of the parking lot to the nearest boundary of the lot on which the building is located that such parking lot is required to serve. In the event of new construction, addition, or change in intensity of use of the principal building or property being serviced by the remote parking lot, all existing parking spaces located on such remote lot shall be allocated to the existing building or principal use to meet the minimum requirements of this article, and any additional spaces may then be allocated to that portion of the building or property which is the subject of the new construction, addition, or change in intensity of use.

g. *Collective action relative to off-street parking and loading.* Nothing in this article shall be construed to prevent the joint use of off-street parking or off-street loading space for two or more buildings or uses in the total of such spaces, when used together, shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the off-street parking regulations and off-street loading and unloading regulations of this article.

h. *Mixed uses.* In the case of mixed uses, the total requirements for off-street parking and loading spaces shall be the sum of the requirements of the various uses computed separately as specified in the off-street parking regulations and off-street loading and unloading regulations of this article. The off-street parking and off-street loading space for one use shall not be considered as providing the required off-street parking and/or off-street loading space for any other use unless specifically approved by the city commission. In any mixed use building or project constructed after February 22, 2010, that includes residential units, at least one of the required parking spaces provided for each residential unit shall be dedicated and reserved for each particular residential unit.

i. *Use of required off-street parking by another building.* No part of an off-street parking lot required for any building or use for the purpose of complying with the provisions of this article



shall be included as a part of an off-street parking area similarly required for another building or use unless the type of structure indicates that the periods of usage of such structures will not be simultaneous or unless the size of said off-street parking lot is sufficient to comply with the provisions of this article.

j. *Remote parking lots encumbered.* Where the provisions of off-street parking for a building or other use established subsequent to the adoption of this article involves one or more parcels or tracts of land that are not a part of the plot on which the principal use is situated, the applicant for a permit for the principal use shall submit his application for a building permit, and an instrument duly executed and acknowledged, which subjects that parcel or tract of land to parking uses in connection with the principal use for which it is available. The initial term of this instrument shall be at least five years in length. The instrument shall not be acceptable if the agreement can be terminated by either party, unless such termination is conditioned and predicated on the coincident termination of the use that necessitated the instrument agreement for parking. When a principal use has encumbered a remote parking lot in accordance with the regulations outlined herein to provide the required minimum parking spaces, then hereafter, the business tax receipt for the principal use will not be renewed by the city until the owner of the subject building presents sufficient evidence to the city that the required spaces will be provided for said use for a period of not less than five years and/or until the operator of the principal use presents sufficient evidence to the city that the required parking spaces will be provided for a period of not less than one year. , The applicant shall cause said instrument to be recorded in the office of the clerk of the circuit court of Orange County, Florida. A certified copy of the instrument shall be provided to the city at the time of application for a building permit or, if no building permit is required, upon the application for a business tax receipt for a use that must provide additional parking under this article. Such encumbrance shall be null and void and of no effect, if and when the city shall rescind or terminate off-street parking requirements for the building to be served by the encumbered lot, parcel or tract.

k. *Accessory parking in residential areas.* A lot or lots separated by common boundary from an office or commercial district but located in an R-3 and R-4 multiple-family dwelling district may be used as a conditional use or as otherwise permitted by this article, provided, however, that:

- i. No advertising signs are erected in the area;
- ii. The setback from the front property line shall be the same as for the district in which the lot or lots are located;
- iii. All automobile parking lots shall be effectively screened on each side which adjoins or fronts property situated in any residential or multiple dwelling district by a wall, fence or densely planted compact hedge. Such wall, fence or hedge shall be not less than four feet in height and shall be maintained in good condition; any landscaped buffer strip shall be continually maintained;
- iv. No structure shall be erected in such area.

l. *Off-street loading and unloading regulations.* On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, food processing or wholesale distribution plant, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or distribution by vehicles, of materials and merchandise, the City may require that there



shall be provided and maintained on the lot adequate space for the standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys. Such space unless adequately provided elsewhere on the lot, shall include a minimum of 12 feet by 55 feet load space with a 14 foot minimum height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of land for the above mentioned purposes. Such loading space shall not be counted toward meeting the required parking for the building or business.

m. *Limited leasing of parking facilities.* Existing parking facilities which have been provided and approved by the building director for a principal building of use shall not be leased to any party other than the owner or operator of such principal use, except that those spaces in excess of the requirements of this article may be leased to parties other than the owner or operator of the principal use.

n. For any parking garage or deck there shall be at least two car lengths (35 feet) of stacking or queuing required whenever there is a parking ticket device or entrance gate so that such stacking does not extend over a public sidewalk or street. No parking ticket device or gate may be added to an existing parking garage unless this requirement is satisfied.

(4) *Bicycle parking.*

a. *Intent and purpose.* The purpose of these regulations is:

1. To provide for bicycle access to employment, commercial, and other transportation and travel destinations; and
2. To encourage the use of bicycles for personal transportation as an alternative to motor vehicles.

b. *Applicability.* Bicycle parking facilities shall be provided for any new building, addition, or enlargement over fifty (50%) percent of an existing building, or for any change in the occupancy of any building that results in the need for additional parking facilities in accordance with the required bicycle parking spaces specified herein. Any existing building that adds, enlarges, or redevelops with an increase of 15% to 49% of the building square footage will be required to provide two (2) bicycle parking spaces.

c. *Exemptions.* No bicycle parking spaces shall be required for the following uses: single-family residence, two-family residence, funeral homes, automobile sales, repair, or body shop, or car wash.

d. *Bicycle parking space requirements.* Bicycle parking spaces shall be required as follows:

1. Office, commercial, retail: Ten percent of required automobile parking;
2. Schools: K--8: One per five students;
3. Grades 9--12, Vocational tech schools and colleges: One per 20 students;
4. Recreation facilities, libraries, museums (public and private): 15 percent of required automobile spaces;

5. Multifamily residential: One space per three units;
6. Hotels, motels: One space per 30 rooms and one space per 50 employees;
7. In all places where bicycle parking is required, a minimum of two and a maximum of 50 bicycle parking spaces shall be provided;
8. Any project incorporating a parking structure in their development will be required to provide 20 percent of the mandated bicycle parking in the form of bicycle lockers on the ground level of the structure. This 20 percent will count towards the total number of required bicycle parking spaces;
9. The city planner shall determine the bicycle parking requirement for any use not referenced above based on its resemblance to one of the uses outlined above.

e. *Location and design of facilities.* The location and design of bicycle parking facilities shall be as follows:

Design: (each rack provides two bicycle parking spaces)

- 1) The standard rack required will be the inverted "U".
- 2) Distance between verticals must be a minimum of 18 inches.
- 3) Height not to exceed 36 inches.
- 4) Minimum tube diameter of 1.9 inches.
- 5) All racks must be black with a powder-coated finish.
- 6) Use of any other rack must go through an approval process by the bicycle and pedestrian advisory board for consideration.

**GRAPHIC LINK: Bicycle Rack**

Bicycle Lockers:

- 1) Locker dimensions: 49-inch height, 30-inch width, 74-inch length.
- 2) Design of bike lockers must conform with the bicycle and pedestrian advisory board list of approved locker designs which is available in the building department.

**GRAPHIC LINK: BICYCLE LOCKERS**

Location:

- 1) Bicycle parking facilities should be located in highly visible well-lit areas to minimize theft and vandalism.
- 2) Whenever possible, the racks should be placed within 50 feet of the building entrances where bicyclists would naturally transition to a pedestrian mode of travel. Otherwise, signage at the building entrance should direct bicyclists to rack location. If a separate employee entrance exists, bicycle racks should be located near the employee entrance as well as the patron entrance.
- 3) Rack placement shall not impede pedestrian or vehicular circulation, and should be harmonious with their environment both in color and design. Parking facilities should be incorporated whenever possible into building design or street furniture.

- 4) Required bicycle parking spaces shall be at least two feet by six feet per bicycle.
- 5) An aisle of a minimum of five feet wide shall be provided behind bicycle parking facilities to allow for maneuvering.
- 6) All lockers and racks must be securely anchored to the ground or the building structure to prevent racks and locker removal from the location.
- 7) Structures requiring a user supplied locking device shall be designed to accommodate both chain and U-shaped locking devices and shall support the bicycle frame at two locations (not just the wheel).
- 8) Bike parking facilities within auto parking areas shall be separated by a physical barrier to protect bicycles from damage by cars, such as curbs, wheel stops, bollards or other similar features.

f. *Exceptions.*

1. Where the provision of bike parking is physically not feasible, the requirements may be waived or reduced to a feasible level by the building department's plan reviewer. The pedestrian and bicycle advisory board will review these decisions twice a year and make recommendations to said reviewer for the provision of bicycle parking spaces and the implementation of this subsection.

2. In special bicycle parking districts, as outlined below, a fee in lieu of providing bicycle parking will be required based on the parking specifications outlined herein. This fee will be used towards placement of bicycle parking in these zones, to be designated by the city planner.

(a) Special bicycle parking districts.

Park Avenue Bicycle Parking District: The area bounded by Fairbanks Avenue to the south, Center Street to the east, New York Avenue to the west, and Swoope Avenue to the north.

## **Sec. 58-95. Definitions.**

For the purposes of this article, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

The word "lot" includes the words plot or parcel.

*Abutting for the purposes of parking garage setbacks* shall mean no closer than 100 feet from any property used as single family or low density residential.

*Abutting property* means any property that is immediately adjacent to or contiguous with property that may be subject to any hearing required to be held under these regulations or that is located immediately across any road or public right-of-way from the property subject to any hearing under these regulations. *Accessory building, structure or use* means a building, part of a building or structure or use which is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot including a private garage for each dwelling unit. Where an accessory building is part of or joined to the main building, such accessory building shall be counted as part of the main building.

*Adult congregate living facility* means a residential structure in which the owners or operators provide lodging, food and one or more personal services for unrelated adults on a profit or nonprofit basis. These facilities shall be subject to the licensing and approval of the state department of health and rehabilitative services.

*Adult day care center* means any building or buildings or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the 24-hour day, basic services to three or more adults, not related by blood or marriage, who require such services.

*Adult entertainment* means any business classified as an adult entertainment business under the city's adult entertainment ordinance.

*Adult foster homes* means a full-time, family type living arrangement, in a private home, under which a person or persons provide, on a nonprofit basis, services of room, board, personal assistance, general supervision, and health monitoring, as appropriate for the level of functional impairment, for three or fewer non-relatives who are aged or disabled adults placed in the home by the department of health and rehabilitative services.

*Adult video or internet arcade* means an establishment that provides, whether as the principal or ancillary business activity, games of amusement for patrons including but not limited to internet, video poker, video slot machines and the like where prizes are offered that exceed free additional games on the machines but entitle winners to free or discount beverages, food, merchandise or other prizes redeemable at other business locations. An establishment with a

principal business activity permitted by this Code such as a restaurant, bar tavern, private club or lodge shall be prohibited from operating an adult video arcade as an ancillary component of that business.

*Affordable Housing* means a dwelling unit, with regard to a unit for sale, which costs less than eighty (80%) percent of the median price of the single family homes sold the previous year in the Orlando metropolitan area; and with regard to a unit for rent, one which rents monthly for less than eighty (80%) percent of the median monthly cost of similar sized units for the previous year in the Orlando metropolitan area and for which the purchaser's or renter's income or combined family income does not exceed 80% of the median family income for the Orlando metropolitan area.

*Ancillary use* means a subsidiary use connected to the principal permitted use of a building or piece of land and located on the same development site as the principal use.

*Apartment* means any room or suite of rooms with bathroom, refrigeration facilities and cooking facilities which is intended or designed to be occupied as the home or residence of one individual, family or household for housekeeping purposes.

*Applicant* means any person who submits plans to the planning and zoning commission for the purpose of obtaining approval thereof.

*Arbor* means a light open structure of trees or shrubs closely planted, either twined together and self-supported or supported on a light latticework frame.

*Attic* means an area of a building between the roof and the ceiling of the highest habitable floor. Attic areas are not to be habitable areas, but shall serve only as storage area or for mechanical equipment. Attics shall not contain plumbing fixtures or finished room areas. Attics shall have minimal lighting and air circulation fans.

*Bar, cocktail lounge, or tavern* means any establishment which is devoted primarily to the retailing and on-premise consumption of alcoholic beverages. Such establishments may also serve meals and food as is customary for restaurants; however, this particular use shall be those establishments where more than fifty (50%) percent of the gross revenue is derived from alcoholic beverage sales versus food sales.

*Basement (also cellar)* means a portion of a building partly underground which has less than one-half of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground and not deemed a story.

*Bed and breakfast or boardinghouse* means a building or part thereof with nine or less rooms which is not consistent with the definition of a hotel or inn in which sleeping rooms are available for hire as lodging with or without meals and the building having only one kitchen. Where equipment for cooking or provisions for the same are included in a sleeping room, such room shall be deemed to be a dwelling unit.

*Boathouse lot* means a lot situated between a lake and/or canal and a public road or street and restricted to use of private boathouse or private dock by reason of having less area than the minimum area required for residential use.

*Buffer* means a specified land area together with the planting and landscaping required on the land used to visibly separate one use from another or to shield or block noise, lights or other nuisances.

*Buildable area* means the location on a lot in which the principal building may be constructed in accordance with the required setbacks for the respective zoning district in which the property is located. In residential districts which require various setbacks for the principal building, the least stringent principal building setback may be utilized for accessory structures unless another specified setback is required by code.

*Building* means any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings, and which is designed or intended for shelter, enclosure or protection of persons, animals or chattels.

*Building coverage* means the proportion of the lot area, expressed as a percent, covered by the maximum horizontal cross section of a building or buildings.

*Building facade* means the face of a building most nearly parallel to any public right-of-way line. The facade includes the wall and window area between the principal front building corners from ground to roof line.

*Building height* means the vertical distance measured from the average elevation of the existing lot grade at the front of the building to the highest point of the rooftop.

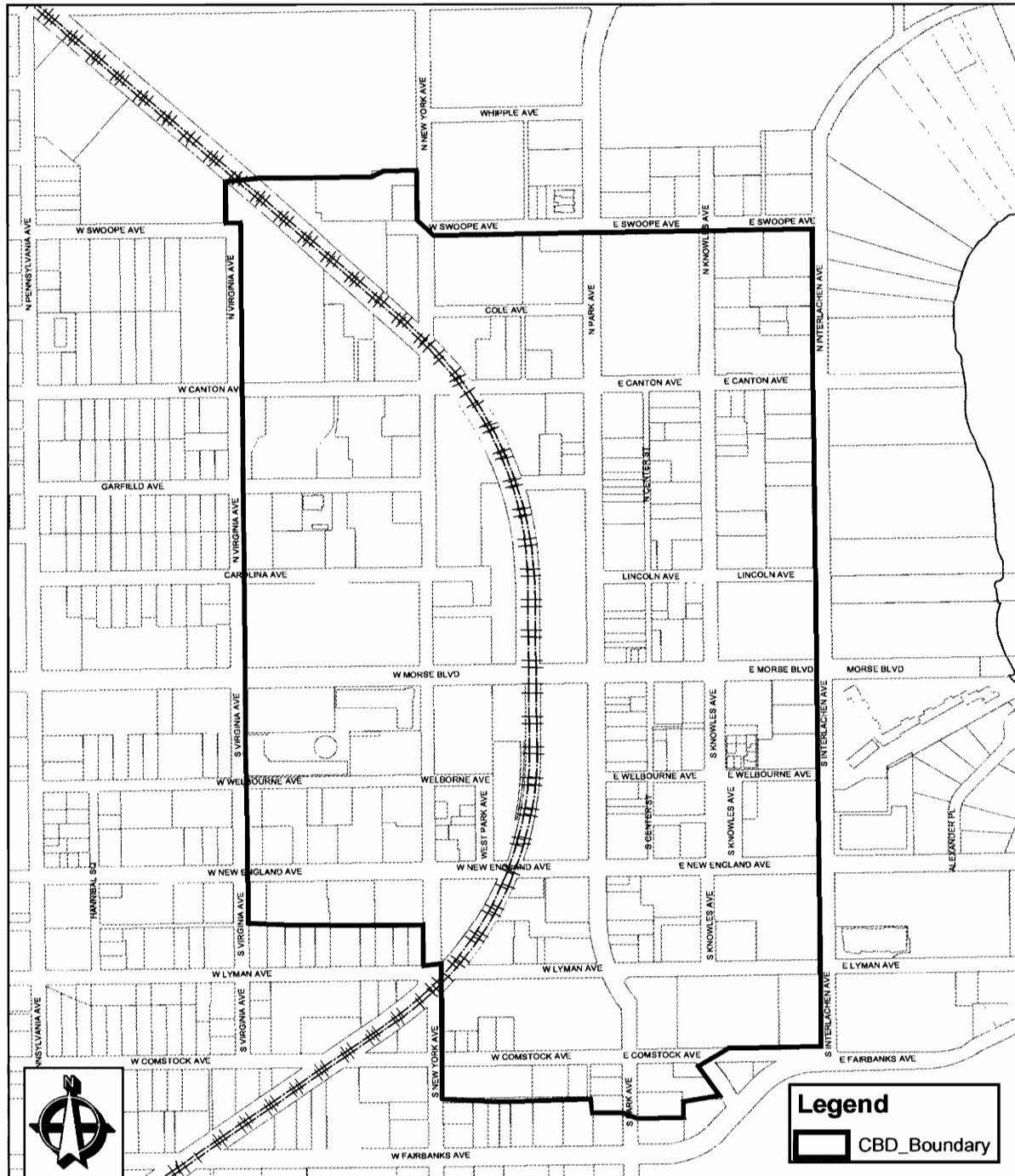
*Cabana* means a partially open structure at a swimming pool or water body used as a bathhouse, or for outdoor cooking, but not designed as habitable space with sleeping rooms.

*Canalfront lot* means a lot or property bounded in part by one of the navigable canals interconnecting lakes Maitland, Osceola, Virginia and Mizell.

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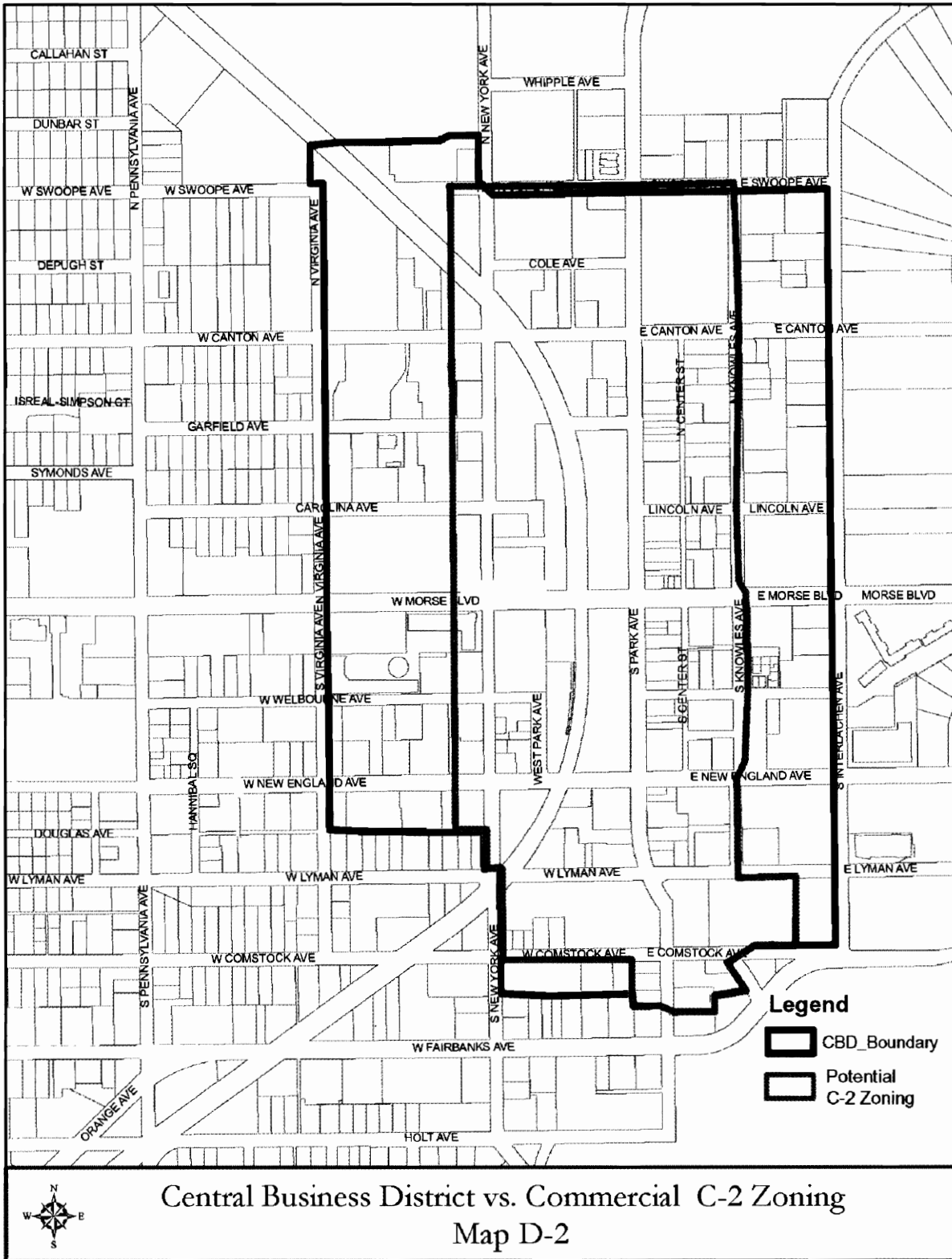
**Central Business District (CBD)** means the business, commercial, office and residential "core" of Winter Park (also known as "Downtown"). This is not to be confused with the CBD Future Land Use Designation, the Hannibal Square Neighborhood Commercial District, the Planning Area boundary for Planning Area G – Downtown/Rollins College, the Community Redevelopment Area (CRA), or with C-2 zoning.

## Winter Park Central Business District Boundary Map D-1





# Central Business District and Commercial C-2 District Zoning Map D-2



*Check Cashing/Advance Facility* means any building, room, space, establishment, facility or portion thereof where checks are cashed in exchange for a percentage fee or where unsecured, short-term cash advances are provided, including those made against future paychecks. This does not include a state or federally chartered bank, savings association, credit union or industrial loan company.

*Child care facility/center* means a building and related grounds designed and utilized for the provisions of child care and not also used as a permanent residence or providing overnight care accommodations. The term includes a day nursery, kindergarten, day-care service, day-care agency, learning center, or play school.

*Cluster housing* means single-family dwellings, which are attached, or detached dwelling units and which are designed, arranged and constructed to allow separate and different ownership of the units. Examples of housing types included in this classification are: townhouses, duplexes, triplexes and quadruplexes. Units shall be grouped in clusters containing one to four units.

***Community Redevelopment Area (CRA)*** means an area designated by the City of Winter Park and Orange County as an area for residential and commercial redevelopment with goals for affordable housing, blight elimination, enhanced safety and corridor enhancement pursuant to adopted CRA plans. Per the policies of the Comprehensive Plan, prior to the creation of a new CRA or expansion of the existing CRA there shall be a public notice requirement to all households in the City to inform residents of the proposal, the need for such action and the plans or actions contemplated as a result, and a supermajority (four votes) of the City Commission is required for approval.

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*Community residential homes* means a dwelling unit in conformance with state regulations which provides a living environment for seven (7) to fourteen (14) unrelated residents who operate as the functional equivalent of a family, including such supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of the residents.

*Consignment* means the act of consigning, which is placing goods in the hands of another, but retaining ownership until the goods are sold.

*Continuing care facilities* means a facility which, pursuant to an agreement, furnishes shelter, food, and either nursing care or personal services, whether such nursing care or personal services are provided in the facility or in another setting designated by the agreement for continuing care, to an individual not related by consanguinity or affinity to the provider furnishing such care, upon payment of an entrance fee. Other personal services provided shall be designated in the continuing care agreement. Agreements to provide continuing care include agreement to provide care for any duration, including agreements that are terminable by either party.

*Convenience store* means a small retail store or shop that primarily sells items such as candy, ice-cream, soft drinks, lottery tickets, newspapers and magazines, along with a selection of processed food, various grocery and health care products and miscellaneous items, and sometimes also serves as a gas station. The store size is approximately 5,000 square feet in area or less.

*Delicatessen* means a store primarily specializing in imported or unusual foods and ingredients, such as cooked meats, cheeses, pickles and similar products.

*Dormitories* means a room, apartment or building containing sleeping accommodations; which facility is operated for the use of students enrolled in the sponsoring educational institution.

*Drive-in business* means an establishment which is designed to permit or encourage service directly to customer's vehicles upon the premises. An establishment of the "drive-in" type is one which accommodates the patron's vehicles, from which the occupants may receive a service or obtain a product without leaving their vehicles or one where the vehicle itself receives the service or product from the occupant or from employee as in the case of gas stations.

*Duplex* means a two-family dwelling.

*Dwelling, cottage* means a building which is attached to or detached from a principal dwelling, is smaller in area than the principal dwelling, is occupied exclusively by one family, has one kitchen and is located on the same property as the principal dwelling.

*Dwelling, principal* means a building which is attached to or detached from a cottage dwelling, is larger in area than the cottage dwelling, is occupied exclusively by one family and has one kitchen.

*Dwelling, single-family* means "single-family dwelling" means a detached building designed for or occupied exclusively by one family, including guests and servants employed on the premises and having but one kitchen.

*Dwelling, two-family* means a building under one roof designed for or occupied exclusively by two families, living independently of each other.

*Dwelling, multiple-family* means a residential building designed for or occupied by three or more families, with the number of families in residence at one time not exceeding the number of dwelling units provided.

*Dwelling unit* means one room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

*Estate lot* means a single family residential property under single ownership, regardless of divisions that may be shown by the Orange County Property Appraiser that is one (1) acre or larger.

*Existing parking spaces* means all parking spaces servicing or used by a particular building or use regardless of whether such spaces are located on the same property as the building or use, or on another lot or property. Existing parking spaces servicing or used by a particular building or use:

- (1) Shall not need to be listed as the same entity on the property tax rolls;
- (2) Shall not need to have been acquired coincidentally with the particular building use; and
- (3) Shall not need to be dedicated for parking purposes as long as the existing parking spaces are servicing or used by a particular building or use and can be counted toward meeting the minimum specific parking requirements for that building or use.

*Family* means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over three unrelated persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

*Family day care homes* means an occupied residence in which child care is regularly provided for no more than five preschool children from more than one unrelated family and which receives payment, fee, or grant for any of the children receiving care, whether or not operated for profit. The maximum number of five preschool children includes preschool children living in the home and preschool children received for day care who are not related to the resident care giver. Elementary school siblings of the preschool children received for day care may also be cared for outside of school hours provided the total number of children, including the caretaker's own and those related to the care giver, does not exceed ten.

*Fine arts museums* means structures used for preserving and exhibiting collections of artistic significance such as paintings, sculpture, glass works, etc. which are not for sale. *Fine dining restaurant* means any establishment which is devoted to the retailing and on-premise consumption of meals and food where more than fifty (50%) percent of the gross revenue is derived from food sales versus alcoholic beverages where food service is provided by waiters/waitresses and where the menu shall consist of fine dining cuisine with a range of appetizers, entrees and desserts. Fine dining restaurants shall not include establishments where ordering or payment is done at a counter/cashier and shall not include sandwich shops, sub shops or any type of fast food business.

*Fitness facility, exercise or health club* means a facility which may be indoor or outdoor or in combination that is operated on either a profit or non-profit basis which contains exercise equipment and/or recreational facilities where patrons utilize such facilities individually or as part of groups for the purpose of physical conditioning. The terms include gyms, personal training and wellness centers. Ancillary food and beverage service is permitted but must be incidental to the primary use and must be primarily for the use and convenience of the patrons of the fitness

facility or health club and not to include signage or advertising which may encourage use by the general public.

*Floor area ratio (FAR)* means the gross floor area divided by the land area of the building site excluding land areas across a public street under the same ownership. The gross floor area ratio is the square footage of the building or buildings on the property (and contiguous properties being used in connection with such building(s)) divided by the area of such property in square feet. This mathematical expression (gross floor area ÷ land area = floor area ratio) shall determine the maximum building size permitted.

*Foster care facility* means a facility which houses foster residents and provides a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional, and social needs of the residents and serving either children or adult foster residents.

*Garage, private* means an accessory building or a portion of the principal building used for the storage of automobiles of the occupants of the principal building. A carport is a private garage.

*Gross floor area* means, for the purpose of determining the floor area ratio of a building, the sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior surface of the walls. The means of deriving "gross floor area" for special circumstances is clarified as follows:

(1) Basement areas or other below grade floor areas are excluded from the "gross floor area" when more than one-half of that basement or floor height is below the existing grade or below the established curb level, if the lot grade is lower than the established curb level. However, in multi-family residential condominiums and apartment projects and in office, commercial or industrial projects, these basement floor areas shall be restricted to parking, service, mechanical, or storage uses. Furthermore, these basement areas when used for service, mechanical, or storage purposes shall be limited in size for those uses to no more than 7 1/2 percent of the first floor area.

(2) Parking areas or drives under the building footprint shall be counted toward "gross floor area" except as referenced above, unless in a basement.

(3) The "gross floor area" of a building shall include the area of stairways, elevators, atriums and volume ceiling spaces on each floor level, when such height would permit a floor level to exist with seven-and-one-half-foot clearance. This shall be deemed to occur when the interior floor to ceiling height exceeds 17 1/2 feet.

(4) The area within carports and within screened porches/screened balconies, except that rear or side screened porches/screened balconies, shall be included within the "gross floor area" of a building. The area within carports not attached to the principal structure used on office or commercial parking lots may be excluded for up to forty (40%) of the parking spaces, provided the carports are at least eighty percent (80%) open on all sides and are not enclosed garage structures.

(5) The area of screened pool enclosures shall not count toward floor area ratio.

(6) "Gross floor area" shall be computed using the site used for building. On lakefront lots this shall only include the land in elevation at or above the normal high water elevations specified in this Article. Land area located across a street and separated from the building site shall not be included in the available land area calculation.

(7) The area within open street front porches and entries shall not be included within the "gross floor area." This exclusion shall be limited to a maximum area of 520 square feet. The area within an open or screened rear or open side porch, lanai or other covered area shall not be included within the "gross floor area". This exclusion shall be limited to a maximum of 900 square feet. Properties utilizing this exemption shall record a deed covenant outlining the restrictions precluding the screening or enclosing of such porch, lanai or entry.

(8) Attic spaces shall not be counted within the "gross floor area" provided such floor space is used only for the storage of household items and not used as habitable space by the occupants of the residence.

(9) The site land area must be entirely one contiguous land mass and shall not include land isolated or separated from the main site by a street or water body.

(10) The floor area of private parking garages (above grade) or parking levels shall be counted toward the floor area ratio when such parking is provided to meet the parking requirements of the Code, except for the top open parking level, and the basement level. The public parking component of any parking garage may be excluded from the floor area ratio calculation by the City Commission, depending on the accessibility of the public garage.

*Guest house* means a detached accessory building designed for use by guests, persons employed by the household or members of a family occupying the main building on the same lot and containing no kitchen or cooking facilities and no separate utility meters. No such guest house may be rented, let or hired out for occupancy whether the compensations be paid directly or indirectly.

*Habitable Space* means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, screen enclosures, sunrooms built in accordance with the Florida Building Code, storage or utility space and similar areas are not considered habitable space.

*Hannibal Square Neighborhood Commercial District.* That portion of the community redevelopment area (CRA) where special provisions for the development of buildings and other improvements have been adopted, which shall take precedence over other provisions of this article. The Hannibal Square Neighborhood Commercial District (HSNCD) area shall be restricted to the following areas:

- a. Properties abutting Morse Boulevard between Capen Avenue and Virginia Avenue;
- b. Properties abutting New England Avenue between Pennsylvania and New York Avenues;
- c. Properties abutting Pennsylvania Avenue between Lyman and Garfield Avenues, including those existing commercial properties just north of Garfield Avenue; and
- d. Properties abutting Hannibal Square East.

*Hookah/Hookah Bars* means an establishment where a hookah pipe or device is used. Such establishments are only permitted in conjunction with fine dining restaurant establishments, and are not permitted as an ancillary use in other restaurants (other than fine dining), coffee shops, tea rooms, retail stores or personal service businesses.

*Hotel* means a building kept, used, maintained, advertised as, or held out to the public to be a place where sleeping accommodations are supplied for pay to guests, in which ten or more rooms are furnished for the accommodations of such guests, and having or not having one or more dining rooms, restaurants or cafes where meals or lunches are served to guests; such sleeping accommodations and dining rooms, restaurants or cafes, if existing, being conducted in the same building or buildings in connection therewith.

*Ice cream and coffee shops* mean any establishment primarily devoted to the sale of ice cream, frozen yogurt, Italian ice, cookies, pastries, coffee, teas and other beverages.

*Impervious coverage* means the percentage of the lot land area that is covered with impervious materials such as building, swimming pools, decks, patios, driveways, etc. Standard engineering coefficients of permeability may be utilized for mixed surfaces. Land located across a street and separated from the building site shall not be included in the available land area calculation.

*Intensity* means the degree to which land is occupied and/or the density of development. (There is no single measure of the intensity of land use. Rather, a land use is relatively more or less intense due to one or more characteristics, such as traffic generated, amount of impervious surface, bulk of the structures, number of employees, density or nuisance such as pollution, noise, light, etc.)

*Internet café* – see adult video or internet café.

*Lakefront lot* means a lot or property which is bounded by or within 200 feet of lakes Maitland, Osceola, Virginia, Mizell, Sue, Sylvan, Berry, Forrest, Killarney, Temple, Tuscany, Spier, and Lake Bell.

*Land development office* means a commercial real estate business engaged in the sale, development or management of properties. Land development offices are typically engaged in the building of projects, management of shopping centers, office buildings, etc. and the sale of large scale commercial, office, industrial or vacant parcels and not the individual sale of single family homes or condominiums.

*Land development regulations* means the Chapter 58 Land Development Code provisions including the city's zoning, subdivision, building and other regulations controlling the development and use of land.

*Living area* means that area of a dwelling unit, enclosed, which is protected from the elements and able to be heated, including interior halls, closets, utility and storage area in the main building, but excluding garages, carports, screened porches and unenclosed areas. All horizontal dimensions shall be calculated from the outside faces of walls.

*Lot (parcel)* means, for purposes of this article, a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area; and to provide such yards and other open spaces as are herein required. Such lot may consist of: (1) a single lot of record; (2) a portion of a lot of record; (3) a combination of complete lots of record and portions of a lot of record; (4) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this article.

*Lot (building) coverage* means the percentage of the lot area that is covered by the maximum horizontal cross section of a building or buildings. Covered or screened porch areas, balconies and screened pool enclosures shall count toward the lot coverage percentage as shall the area within carports.

*Lot frontage or width* means the lot boundary dimension adjoining a street.

*Lot of record* means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the clerk of circuit court of Orange County, Florida, or a parcel of land, the deed of



which was recorded in the office of the clerk of circuit court of Orange County, Florida, on or before August 25, 1971.

*Lot types* means the diagram (figure 1, below) which illustrates terminology used in this article with reference to corner lots, interior lots, reversed frontage lots and through lots:

A = Corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked "A" in the diagram.

B = Interior lot, defined as a lot other than a corner lot with only one frontage on a street.

C = Through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

D = Reversed frontage lot, defined as a lot on which the frontage is at right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be corner lot (A-D in the diagram), and interior lot (B-D) of a through lot (C-D).

*Major arterial street* means a street designed and constructed primarily to move a large volume of traffic, at a relatively efficient rate of speed across the city; a secondary function of a major arterial street is to give access to adjacent property.

*Manufactured homes* means a building, also referred to as mobile home, that is transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

*Mobile home* means a detached residential dwelling unit designed for transportation after fabrication, on streets or highways, and coming under the jurisdiction of the department of transportation, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities, and the like. A travel trailer is not to be considered as a mobile home.

*Modular homes (also including prefabricated and/or factory built houses)* means a structure whose component parts and/or sections are fabricated in one area and assembled as a completed building or structure upon a permanent location, or a building or structure whose component parts and/or section are fabricated and assembled as a completed unit at a central plant and moved to a permanent site.

*Morse Boulevard designated area* is defined as those properties fronting Morse Boulevard between New York Avenue and Denning Drive and additionally the properties in the blocks bounded by Morse Boulevard, Denning Drive, Canton Avenue and Harper Street.

*Motel* means a building or group of buildings, similar to a hotel of ten rooms or more, whether attached or in connected units, used by individual guests, and providing for accessory off-street parking facilities adjacent to each unit and having individual unit entrances opening to the outside. The term "motel" shall used interchangeably with "hotel".

*Motor Vehicle* means any motorized vehicle not operating on rails.

*Museums* mean structures used for preserving and exhibiting collections of artistic, cultural, historical or scientific significance which are not for sale.

*New York Avenue Corridor* means the area which encompasses those properties having frontage on New York Avenue between Whipple and Lyman Avenues.

*Nonconforming structure* means a building, building element or structure or portion thereof which does not meet the requirements of the Zoning Code, which includes but is not limited to the restrictions on floor area, lot coverage, height, yard size (setbacks), floor area ratio, impervious coverage, or its location on the lot.

*Nonconforming use* means the use of a building or portion thereof, or land, or portion thereof, which does not conform to the permitted or conditional use regulations of the zoning district in which it is located.

*Non-profit educational facility* means a building or structure owned or leased by a non-profit educational institution pursuant to IRS standards providing educational programs and activities but not including athletic facilities or programs associated with that institution.

*Nursing (convalescent) homes* means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

*Office/showroom/warehouse* means a building containing business establishments that combine to occupy at least thirty (30%) percent of the gross building area as office or showroom floor space and which engage in the selling of products and merchandise to retailers and customers in wholesale lots.

*Off-street loading and unloading spaces* means an open hard-surface area other than a street or public way, the principal use of which is for standing, loading and unloading of trucks, tractors and trailers, to avoid undue interference with the public use of streets and alleys. Such space, when required, shall not be less than twelve (12) feet in width, fifty-five (55) feet in length, and fourteen (14) feet in height, exclusive of access aisles and maneuvering space, and shall not be located in the front setback area of any building.

*Off-street parking space* means an "off-street space" on the ground or in a structure for the parking of one motor vehicle which is held to be an area of not less than 162 square feet, nine (9) feet wide and eighteen (18) feet long exclusive of landscaped areas, driveways, or traffic aisles.

*Open space* means space outside of buildings suitable for recreation, gardens and yards or other outdoor activities. Such space must be free of automobile traffic and parking and readily accessible by all those for whom it is required. The provision of open space within a project shall not count toward park concurrency requirements as may be established by the City, nor may it be used as an exemption for any park impact fees, unless expressly approved by the City Commission.

*Ordinary High Water (OHW)* means the level that a lake can be expected to reach during a "normal" wet season.

*Package store* means establishments selling liquor in addition to beer and wine for consumption off the premises.

*Park Avenue Corridor* means the area which encompasses those properties having frontage on Park Avenue or having frontage on the intersecting streets within 140 feet of Park Avenue.

*Parking lot* means any land area properly zoned, required, provided, used or permitted to be used for the surface parking of five (5) or more automobiles.

*Pawn Shop* means a business that lends money at high interest rates in exchange for collateral such as jewelry, electronic items, or anything else that is judged to have a resale value. The pawn shop keeps the collateral, and if the loan is repaid, the item is returned. If the money is not repaid, the item is sold and the pawn shop keeps the proceeds.

*Pergola* means a garden structure with an open wooden-framed roof, often latticed, supported by regularly spaced posts or columns. The structure, often covered by climbing plants such as vines or roses, shades a walk or passageway.

*Pet Day Care Facility* means an establishment located in a stand alone building in which household pets are kept for all or part of the day and offer services such as obedience, classes, training, grooming and/or behavioral counseling, provided that overnight boarding is not permitted.

*Pet Grooming* means an establishment providing services for household pets that may include bathing, grooming and clipping.

*Private Parking Garage* means any above grade parking structure, required by this Code to meet the requirements for the private (non-public) use of building space, be it for retail, office, restaurant, residential uses, etc. Regardless of the fact that the "public" uses the parking garage spaces as customers, clients, residents, visitors, or employee, if the parking space floor area is necessary to meet the Code requirements, it is considered private parking. Where a project provides parking in excess of code requirements, and such parking is open to the public without restriction, that portion of the parking garage floor area may be defined as public parking, if deemed accessible by the City Commission and deed restricted as public parking, as defined in the public parking garage section of the Comprehensive Plan and this Code.

*Public Parking Garage* means any above grade parking structure, that is owned by the City. Public parking must be open and available to the public, or public employees, and utilized for municipal purposes. Public parking may not be utilized by private owners to satisfy Code parking requirements.

*Real estate office* means a commercial real estate business managed by a broker or brokers that may or may not operate with affiliated real estate associates who render the service for their own properties or for the properties of others of the sale or lease of real property. This shall also include businesses involved in providing for themselves or others expertise in the development of land or the marketing, leasing or sale of land for future development.

*Residential homes for dependent children (foster care homes)* means a specifically designated, subsidized and licensed facility which provides immediate, necessary and very short-term care for not more than two children alleged or adjudicated to be dependent and who, because of their condition or environment, must be removed from home to ensure their welfare.

*Restaurant* means any establishment which is devoted to the retailing and on-premise consumption of meals and food and where more than fifty (50%) percent of the gross revenue is derived from food sales versus alcoholic beverage sales. The on-premise consumption of food may be by patrons either standing or seated on chairs, stools, or benches. Establishments whose primary function is the retail sale of food "to go" for consumption off premises, but which may have up to 12 seats designed for on-site consumption by patrons within the store, are not deemed to be restaurants. This zoning definition of restaurant is not intended to be applicable to the alcoholic beverage license requirements of this Code.

*Retail* means the sale of goods or merchandise from a fixed location, such as a store, boutique or kiosk, which goods are to be taken off the premises for use by the purchaser.

*Service station* means any building, structure or land whose purpose is the retail sale of gasoline/diesel and other petroleum products along which may include by not required to include the service/ repair of vehicles. This shall not include major repair work such as paint and body work, motor/transmission rebuilding or automobile car washing.

*Setback* means the minimum horizontal distance between the street, rear or side lines of the lot and the front, rear or side lines of the building on each story. When two or more lots under one ownership are approved for use for a single purpose, the exterior property lines of all the lots shall be grouped and used in determining offsets for setback purposes.

*Substantial improvement* means, for a structure any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the value of the structure based upon the construction costs determined for the type of construction as set forth in the Building Code.

*Story* means a section of a building between the surface of a floor and the surface of the floor next above it, or if there be no floor above it, then the space between floor and ceiling or roof next above it. Basement areas with floor levels more than one-half below existing grade shall not be considered a story. Mezzanines and lofts, while not meeting the definition of a story under the Florida Building Code, shall be considered as a story for the purposes of this Code. Attic areas shall not be considered as a story unless improved for habitation.

*Streamfront lot* means a lot or property bounded in part by or traversed by Howell Creek as it runs between Lakes Sue and Virginia or runs north of Lake Maitland, including the lagoon within the Maitland Shores neighborhood.

*Street* means a public or private thoroughfare which affords the principal means of access to abutting property. This includes lane, place, way or other means of ingress or egress regardless of the terms used to describe it.

*Time share* means building(s) in which the use or occupancy of any unit circulates among the various occupants who receive a right of ownership or use of the accommodations or facilities for specific periods of time less than a full year or other fractional ownership.

*Townhouse* means attached, single-family dwellings designed, arranged and constructed for separate and different ownership of the unit and the land there under. A unit must be separated from an adjoining unit by a fireproof and soundproof wall extending from the building's foundation to the roof line with no openings therein; however, this wall may be a common wall.

*Townhouse complex* means a planned residential complex containing two or more townhouse buildings; parking lots, driveways, walkways, accessory recreational areas and open space areas being under the common ownership of owners of the townhouse units within the development.

*Treatment and recovery facility/residential shelter* means a secure facility which provides residential and rehabilitation services, including room and board, personal care, and intensive supervision and case work. Emphasis in such facilities is on treatment and counseling services, as opposed to care services or habilitation services. Such facilities may include an outpatient component.

*Trellis* means an open grating or latticework, of either metal or wood, as in an arbor or framework for the support of vines; a treillage.

*Used car junk yard* means a lot or group of contiguous lots used for dismantling or wrecking of used automobiles, or the storage, sale or dumping of dismantled or wrecked cars or their parts.

*Use, conditional* means uses which may be permitted within certain districts only after review and recommendation for a specific request has been granted by the planning and zoning commission and review and decision by the city commission. These governmental bodies may place conditions on the use to insure its compatibility with the district within which it is located.

*Use, permitted* means any building, structure or use which complies with the applicable regulations of this article governing permitted uses in the zoning district in which such building, structure or use is located.

*Use, principal* means the main use of land or building as distinguished from a subordinate or accessory use.

*Variance* for the Board of Adjustment means a relaxation of the terms of the zoning where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this article would result in unnecessary and undue hardships. As used in this article, a variance meeting the requirements of the code can be granted by the Board of Adjustment, but only for height, area, size of structure and size of yards and open spaces (setbacks), unless specifically prohibited by this Code. The establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of presence of nonconformities in the zoning district or uses in an adjoining zoning district.

*Workforce housing* means a dwelling unit, with regard to a unit for sale, which costs less than 120% percent of the median price of the single family homes sold the previous year in the Orlando metropolitan area; and with regard to a unit for rent, one which rents monthly for less than 120% percent of the median monthly cost of similar sized units for the previous year in the Orlando metropolitan area, and for which the purchaser's or renter's income or combined family income does not exceed 120% percent of the median family income for the Orlando metropolitan area.

*Yard* means that portion of a lot extending open and unobstructed, except as otherwise provided herein, from the ground upward along for a depth or width set forth in the applicable district regulations.

*Yard, front* means a yard extending along the full length of a front lot line.

*Yard, rear* means a yard extending for the full length of a rear lot line.

*Yard, side* means a yard extending along a side lot line from the required front yard to the required rear yard.

*Zoning district* means an area or areas within the limits of the city for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.