

City of Fayetteville Staff Review Form

2021-1097

Legistar File ID

1/18/2022

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

12/30/2021

LONG RANGE PLANNING (634)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

§118, Business Registry and Licenses, §151, Definitions, and §161, Zoning Regulations (Amend Fayetteville Code of Ordinances: Short-Term Rental Density Limits): Submitted by the Development Services Department for revisions to the Fayetteville Code of Ordinances to increase the allowable number of short-term rentals in attached residential units where adequate fire protection is present.

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u> No </u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u> No </u>	Item Cost \$ -
Budget Adjustment Attached? <u> No </u>	Budget Adjustment \$ -
	Remaining Budget \$ -

V20210527

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF JANUARY 18, 2022

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff

FROM: Jonathan Curth, Development Services Director

DATE: December 30, 2021

SUBJECT: **§118, Business Registry and Licenses, §151, Definitions, and §161, Zoning Regulations** (Amend Fayetteville Code of Ordinances: Short-Term Rental Density Limits): Submitted by the Development Services Department for revisions to the Fayetteville Code of Ordinances to increase the allowable number of short-term rentals in attached residential units where adequate fire protection is present.

RECOMMENDATION:

City staff recommend approving an ordinance to amend §118, Business Registry and Licenses, §151, Definitions, and §161, Zoning Regulations, permitting short-term rentals in more zoning districts and increasing the allowable number of short-term rentals in attached residential units where adequate fire protection is present, as shown in the attached Exhibit 'A'.

BACKGROUND:

In April of 2021, Fayetteville adopted operating standards for short-term rentals (STRs). This most prominently included the defining and categorization of STRs, licensing and permitting requirements, life-safety inspections, occupation limits, density allowances, and a start-up period for operators to receive licensing without a public hearing. STRs were divided into Type 1 and Type 2 designations, with Type 1 rentals acting primarily as a permanent residence and Type 2 rentals not occupied by a permanent resident and intended primarily for rental.

Where Type 1 STRs are widely permitted without limitation on number, dwelling units used as a Type 2 are subject to two tiers of density limit. First is citywide, where no more than 2% of total dwellings in Fayetteville's city limits can be used as a Type 2. As of mid-December 2021, 280 Type 2 STR applications have been received, representing approximately 6% of the 43,795 dwellings in Fayetteville. The second tier of density limit on Type 2 STRs is based on units within an attached residential building. For 1-, 2-, 3-, and 4-family dwellings up to one unit can be permitted as a Type 2 STR. In multi-family buildings or multi-family complexes, 10% or a single-unit, whichever is greater, can be used for Type 2 rental.

DISCUSSION:

Following implementation, staff identified two portions of the STR ordinance that limit licensing where it may be appropriate. First is the exclusion of STRs from nonresidential zoning districts that do not permit hotels or motels. Although few in number, several properties were identified

where nonconforming residential uses exist. This includes examples like caretaker residences for businesses, homes that predate current zoning standards, and housing associated with institutional uses, like schools or religious entities.

The second instance where the allowances of the STR ordinance may be appropriately broadened relates to the density limit on attached residential units. More specifically, attached residential units that are not held by a single individual or entity, but are instead owned individually, either as condominiums, townhomes, or other real property ownership regime. The STR ordinance currently makes no distinction between ownership of an entire building or complex, and an individual unit within an attached residential building. The building density cap was crafted as a mechanism to limit excessive conversion of Fayetteville's stock of potentially affordable apartment dwellings into STRs. With due consideration for the intent of the ordinance, staff finds that limiting the use of individually held units as STRs does not generally compromise housing availability.

However, many multi-family buildings in Fayetteville, whether under single or individual ownership, were not built with fire protection elements that are now standard. While this poses some risk to occupants, long-term residents are familiar with a building's layout, exits, and fire extinguisher locations. The temporary or itinerant nature of many STR users does not afford this same level of familiarity. Accordingly, staff recommends that the proposal to expand the number of Type 2 STRs within an attached residential building also include evaluation by staff within the Building Safety and Fire Marshal offices.

Consequently, staff recommends two amendments, summarized as:

- Include Use Unit 46, Short-term Rentals in the following zoning districts:
 - C-1, Neighborhood Commercial
 - C-2, Thoroughfare Commercial
 - I-1, Heavy Commercial and Light Industrial
 - I-2, General Industrial
 - P-1, Institutional
- Include an exemption to the building density cap for residential units that are owned separately and in structures with adequate fire protection

BUDGET/STAFF IMPACT:

NA

Attachments:

- Exhibit 'A'
- Proposed Ordinance Amendment in Strikethrough/Highlight

EXHIBIT 'A'

118.01 Applicability

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- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

...

- (18) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

- (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
- (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
- (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
- (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

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151.01 Definitions

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A

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Apartment complex/multi-family complex. One (1) or more multi-family dwelling structures occupying a single lot, operating under a common name, and having a common owner or manager.

...

161.21 District C-1, Neighborhood Commercial

...

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 25	Offices, studios, and related services
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

...

161.23 District C-2, Thoroughfare Commercial

...

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

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161.30 District I-1, Heavy Commercial And Light Industrial

...

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Offices, studios and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies
Unit 46	Short-term rentals

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161.31 District I-2, General Industrial

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(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 13	Eating places
Unit 16	Shopping goods
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 42	Clean technologies
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

...

161.32 District P-1, Institutional

...

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 46	Short-term rentals

...

Proposed Ordinance Amendment in Strikethrough/Highlight

118.01 Applicability

...

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental prior to the city issuing a business license, except as defined in §118.01(E)(4).
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) *Six-Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have six (6) months to obtain a business license and be considered in compliance. After the 6-month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within six months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment

of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.

- (b) Persons seeking to operate a Type 2 short-term rental who have failed to obtain such conditional use permit and business license prior to the end of the six month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the 6-month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
- (5) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (6) Any change in ownership requires a new or amended business license.
 - (7) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (8) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (10) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

- (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
- (12) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
 - (13) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (14) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (15) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (16) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (17) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (18) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. **Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.**

- (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) ~~Density of Type 2 short-term rentals shall not be limited in commercial and mixed-use zoning districts where hotel/motels are permitted by right,~~ **Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.**
- (19) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
- (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

151.01 Definitions

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A

Apartment complex/multi-family complex. One (1) or more multi-family dwelling structures occupying a single lot, operating under a common name, and having a common owner or manager.

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(Code 1965, §§13A-1; 13B-1; 17B-7(a0, 19-24, 1713-2; App. A, Art. 17; App. B, §1; App. C, Art. 1, §D; Ord. No. 1509, 8-8-66; Ord. No. 1747, 6-20-70; Ord. No. 1790, 3-15-71; Ord. No. 1801, 6-21-71; Ord. No. 1859, 3-20-72; Ord. No. 1893, 12-19-72; Ord. No. 1998, 5-7-74; Ord. No. 2581, 12-4-79; Ord. No. 2697, 1-20-81; Ord. No. 2753, 8-18-81; Ord. No. 2789, 1-18-82; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3011, 6-5-84; Ord. No. 3024, 8-21-84; Ord. No. 3231, 12-2-86; Ord. No. 4024, §2, 3-28-87; Ord. No. 3298, 10-6-87; Code 1991, §§98.60, 118.01, 150.02, 156.001, 156.065, 158.03, 158.35, 159.04, 160.002, 160.096(A), 160.121, 161.06, 162.02, 163.02; Ord. No. 3551, 6-4-91; Ord. No. 3138, 11-5-85; Ord. No. 3165, 2-4-86; Ord. No. 3699, §2, 4-20-93; Ord. No. 3780, §1, 4-19-94; Ord. No. 3794, §1 5-17-94; Ord. No. 3870, §1, 4-1-94; Ord. No. 3895, 6-20-95; Ord. No. 3901, §1, 2, 7-5-95; Ord. No. 3908, §1, 7-18-95; Ord. No. 3970, §1, 7-18-95; Ord. No. 3913, §1, 8-1-95; Ord. No. 3963, §1, 4-16-96; Ord. No. 3970, §1, 5-7-96; Ord. No. 3971, §1, 5-21-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, 8-18-98; Ord. No. 4127, 12-15-98; Ord. No. 4178, 8-31-99; Ord. No. 4226, 2-15-00; Ord. No. 4285, 1-2-01; Ord. No. 4321, 6-19-01; Ord. No. 4340, 10-2-01; Ord. 4714, 6-21-05; Ord. No. 4817, 1-03-06; Ord. No. 4847, 3-7-06; Ord. No. 4855, 4-18-06; Ord. No. 4919, 09-05-06; Ord. No. 4930, 10-03-06; Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5056, 9-04-07; Ord. No. 5128, 4-15-08; Ord. No. 5206, 12-16-08; Ord. No. 5238, 5-5-09; Ord. No. 5296, 12-15-09; Ord. No. 5304, 1-19-10; Ord. No. 5312, 4-20-10; Ord. No. 5313, 4-20-10; Ord. No. 5327, 6-1-10; Ord. No. 5339, 8-3-10; Ord. No. 5352, 9-7-10; Ord. No. 5348, 9-7-10; Ord. No. 5375, 12-21-10; Ord. No. 5453, 10-18-11; Ord. No. 5490, 4-3-12; Ord. No. 5526 9-18-12; Ord. No. 5559, 01-03-13; Ord. No. 5592, 06-18-13; Ord. No. 5634, 11-05-13; Ord. No. 5653, 01-21-14; Ord. No. 5679, 4-15-14; Ord. No. 5735, 1-20-15; Ord. No. 5793, 8-18-15; Ord. No. 5866 , §1, 4-5-16; Ord. No. 5888 , §1, 6-21-16; Ord. No. 5901 , §1, 9-6-16; Ord. No. 5951 , §1, 2-7-17; Ord. No. 5986 , §3, 7-6-17; Ord. No. 6015 , §2, 11-21-17; Ord. No. 6087 , §1, 9-4-18; Ord. No. 6245 , §1, 10-15-19; Ord. No. 6350 , §2(Exh. A), 8-18-20; Ord. No. 6407 §1, 1-19-21; Ord. No. 6427 , §§1(Exh. B), 2, 4-20-21; Ord. No. 6440 , §1, 5-18-21; Ord. No. 6442 , §7(Exh. G), 6-1-21; Ord. No. 6446 , §2(Exh. A), 6-15-21)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.21 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 25	Offices, studios, and related services
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments*
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	15 feet
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Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None
Side, when contiguous to a residential district	10 feet
Rear	20 feet

Urban Form Setback Regulations:

Front	A build-to zone that is located between 10 feet and a line 25 feet from the front property line
Side and rear	None
Side or rear, when contiguous to a single-family residential district	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 4, 5, 4-2-19; Ord. No. 6223, §1, 9-3-19; Ord. No. 6245, §2, 10-15-19)

161.23 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units

Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None
Side, when contiguous to a residential district	15 feet
Rear	20 feet

Urban Form Setback Regulations:

Front	A build-to zone that is located between 10 feet and a line 25 feet from the front property line
Side and rear	None
Side or rear, when contiguous to a single-family residential district	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	6 stories*
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* If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from side boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area*. On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4727, 7-19-05; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 6, 7, 4-2-19; Ord. No. 6223, §1, 9-3-19; Ord. No. 6245, §2, 10-15-19)

161.30 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Offices, studios and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front, when adjoining A or R districts	50 feet
Front, when adjoining C, I, or P districts	25 feet
Side, when adjoining A or R districts	50 feet
Side, when adjoining C, I, or P districts	10 feet
Rear	25 feet

(F) *Height Regulations.* There shall be no maximum height limits in I-1 District, provided, however, that if a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5472, 12-20-11; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 5982, §1, 6-20-17; Ord. No. 6015, §1(Exh. A), 11-21-17)

161.31 District I-2, General Industrial

(A) *Purpose.* The General Industrial District is designed to provide areas for manufacturing and industrial activities which may give rise to substantial environment nuisances, which are objectionable to residential and business use.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 13	Eating places
Unit 16	Shopping goods
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 42	Clean technologies
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 31	Facilities emitting odors and facilities handling explosives.
Unit 36	Wireless communications facilities
Unit 38	Mini-storage Units
Unit 39	Auto salvage and junk yards

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback Regulations.*

Front, when adjoining A or R districts	100 feet
Front, when adjoining C, I or P districts	50 feet
Side, when adjoining A or R districts	50 feet
Side, when adjoining C, I or P districts	25 feet
Rear	25 feet

(F) *Height Regulations.* There shall be no maximum height limits in I-2 Districts, provided, however, that if a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* None.

(Code 1965, App. A., Art. 5(IX); Ord. No. 2351, 6-21-77; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.040; Ord. No. 3971, §2, 5-21-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 5982, §1, 6-20-17; Ord. No. 6015, §1(Exh. A), 11-21-17)

161.32 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	30 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	20 feet
Side, when contiguous to a residential district	25 feet
Rear	25 feet
Rear, from center line of public alley	10 feet

(F) *Height Regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, if a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional

setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

- (G) *Building Area*. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19)