

## APPENDIX A

### ZONING\*

#### Article I Preamble and Enactment Clause

#### Article II Short Title

#### Article III Definition of Terms Used in Ordinance

Sec. 31. Definitions.

#### Article IV Establishment of Districts: Provision for Official Zoning Map

- Sec. 41. Use districts.
- Sec. 42. District boundaries.
- Sec. 43. Official zoning map.
- Sec. 44. Replacement of official zoning map.
- Sec. 45. Interpretation of district boundaries.
- Sec. 46. District boundary line divides a lot of single ownership.

#### Article V General Provisions

- Sec. 51. Zoning affects every building and use.
- Sec. 52. Continuance of a nonconforming use.
- Sec. 53. Only one principal building on any lot.
- Sec. 54. Street access.
- Sec. 55. Height and density.
- Sec. 56. Reduction of lot area prohibited.
- Sec. 57. Off-street automobile parking and storage.
- Sec. 58. Off-street loading and unloading spaces.

**\*Editor's note**—Printed herein is the city's zoning ordinance, as adopted by the city council on August 12, 1980. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citations to state statutes, and expression of numbers in text have been used to conform to the Code of Carnesville, Georgia. Additions made for clarity are indicated by brackets.

**Cross references**—Any zoning ordinance saved from repeal, § 1-11(10); buildings and building regulations, ch. 10; environment, ch. 22; floods, ch. 26; planning, ch. 34; signs, ch. 38; streets, sidewalks and other public places, ch. 46; subdivisions, ch. 50; telecommunications, ch. 58.

**State law references**—The Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq.; local government zoning powers, O.C.G.A. § 36-66-2; conflicts of interest in zoning actions, O.C.G.A. § 36-67A-1 et seq.; effect of zoning laws on covenants running with the land, O.C.G.A. § 44-5-60; authority to adopt plans and exercise the power of zoning, Ga. Const. art. IX, § II, ¶ IV.

## CARNESVILLE CODE

### **Article VI Use Requirements for Residential Districts**

- Sec. 61. Residential I—Single-family district (R-1).
- Sec. 62. Two-family and multifamily residential district (R-II)

### **Article VII Use Requirements for Commercial Districts**

- Sec. 71. Neighborhood shopping district (NS).
- Sec. 72. Highway business district (HB).
- Sec. 73. Office business district (OB).
- Sec. 74. Central business district (CBD).

### **Article VIII Use Requirements for Industrial Districts**

- Sec. 81. Industrial district (I).

### **Article IX Requirements for Flood Hazard Districts**

- Sec. 91. Flood hazard (FH) districts.
- Sec. 92. Flood hazard (FH) districts—Permitted uses.
- Sec. 93. Special exception uses within FH districts.

### **Article X Exceptions and Modifications**

- Sec. 101. Existing lots.
- Sec. 102. Adjoining and vacant lots of record.
- Sec. 103. Front yard setbacks for dwellings.
- Sec. 104. Height limitations.
- Sec. 105. Visibility at intersections.
- Sec. 106. Corner lots.
- Sec. 107. Group housing project.

### **Article XI Administration, Enforcement and Penalties**

- Sec. 111. Zoning enforcement office.
- Sec. 112. Building permit required.
- Sec. 113. Application for building permit.
- Sec. 114. Certificate of occupancy required.
- Sec. 115. Penalties for violation.
- Sec. 116. Remedies.

### **Article XII Board of Appeals**

- Sec. 121. Establishment; jurisdiction.
- Sec. 122. Meetings; officer to administer oaths and compel attendance of witnesses; minutes required and filed as public record.
- Sec. 123. Appeals—How taken.
- Sec. 124. Same—Notice of hearing.
- Sec. 125. Same—Stay of proceedings; exception.
- Sec. 126. Reserved.
- Sec. 127. Use variance.

## APPENDIX A—ZONING

Sec. 128. Action on appeal.

### **Article XIII Amendments**

Sec. 131. Authority to amend.  
Sec. 132. Criteria to consider for map amendments.  
Sec. 133. Public notice and public hearing required.  
Sec. 134. Planning commission recommendation.  
Sec. 135. Conduct of public hearings.  
Sec. 136. Action by the governing body.

### **Article XIV Legal Status Provisions**

Sec. 141. Conflict with other regulations.  
Sec. 142. Validity.  
Sec. 143. Effective date.



ZONING ORDINANCE  
OF  
CARNESVILLE, GEORGIA

AN ORDINANCE FOR CARNESVILLE, GEORGIA, REGULATING THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES, AND THE SIZE OF BUILDINGS AND STRUCTURES, THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACE, THE DENSITY AND DISTRIBUTION OF POPULATION, THE USES OF BUILDINGS AND STRUCTURES AND LAND FOR TRADE, INDUSTRY, COMMERCE, RESIDENCE, RECREATION, PUBLIC ACTIVITIES, OR OTHER PURPOSES; CREATING DISTRICTS FOR SAID PURPOSE AND ESTABLISHING THE BOUNDARIES THEREOF; DEFINING CERTAIN TERMS USED HEREIN, PROVIDING FOR THE METHOD OF ADMINISTRATION AND AMENDMENT; DEFINING THE POWERS AND DUTIES OF THE PLANNING COMMISSION, BOARD OF APPEALS, BUILDING INSPECTOR AND GOVERNING AUTHORITY, PROVIDING PENALTIES FOR VIOLATION; AND REPEALING CONFLICTING REGULATIONS.

**ARTICLE I PREAMBLE AND ENACTMENT CLAUSE**

In pursuance of the authority conferred by the State of Georgia Constitution of 1976, as amended, and for the purpose of promoting the health, safety, morals, convenience, order, prosperity or welfare of the present and future inhabitants of the City of Carnesville and the State of Georgia, including among other purposes - lessening congestion in the streets and roads; securing safety from fire and other dangers; providing adequate light and air; promoting such distribution of population and such classification of land uses and distribution of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provision for transportation, water supply, drainage, sanitation, educational opportunity and recreation; all in accordance with a comprehensive plan of the City of Carnesville does hereby ordain and enact into law the following articles and sections:

**ARTICLE II SHORT TITLE**

These regulations shall be known and may be cited as "The Zoning Ordinance of Carnesville, Georgia."

**ARTICLE III DEFINITION OF TERMS USED IN ORDINANCE**

**Section 31. Definitions.**

For the purpose of these regulations, certain words and terms used herein shall be defined as follows: Words used in the present tense include the future tense. Words used in the singular number include the plural and words used in the plural include the singular. The word "person" includes a firm, copartnership, or corporation. The word "lot" includes the word "plot" or "parcel." The word "building" includes the word "structure."



The word "shall" is always mandatory, and not merely directory. The word "used" or "occupied," as applied to any land or building, shall be construed to include the word "intended, arranged or designed to be used or occupied."

*31.1. Accessory use.* A use customarily incidental to the use of a building for dwelling purposes.

*31.2. Agriculture.* The cultivation or growth of a field or horticultural crop or tree or forestry product, not including the raising or keeping of livestock, fowl, or poultry.

*31.3. Alteration of building.* Any change in the supporting members of a building (such as bearing walls, columns, girders) except such change as may be required for its safety; any addition to a building; any change in use from that of one district classification to another; or of a building from one location to another.

*31.4. Apartment house.* A multifamily dwelling located on a parcel of land under a single ownership, designed for use by three or more housekeeping units, living independently of each other, and doing their own cooking on the premises.

*31.5. Building.* Any structure having a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals, or chattels.

*31.6. Building, accessory.* A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

*31.7. Building, principal.* A building in which is conducted the main or principal use of the lot on which said building is situated.

*31.8. Centerline of street.* That line surveyed and monumented by the governing body shall be the centerline of the street; or if such centerline has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street.

*31.9. Connecting routes.* Any roads, streets, or route, designated as a connecting route by the City of Carnesville planning commission and shown as such on the official zoning map.

*31.10. Condominium.* A building or complex of multiple unit dwellings in which a tenant holds full title to his unit and joint ownership in the common grounds.

*31.11. Dwelling.* A building designed or used as living quarters for one or more families, not including a mobile home.

*31.12. Dwelling unit.* A dwelling or portion thereof providing facilities for one or more persons living as a single housekeeping unit, not including a mobile home.

*31.13. Multifamily dwelling.* A structure designed or used for residential occupancy by more than two housekeeping units, with or without common or separate kitchen or dining facilities, including apartment houses, apartment hotels, roominghouses, boardinghouses, fraternities, sororities, dormitories, row houses, townhouses, and similar housing types, but not including motels, hotels, hospitals, nursing homes, or public institutions such as prisons and mental institutions.



*31.14. Flood hazard area.* Any area within the City of Carnesville which is subject to periodic flooding due to natural or manmade causes and which includes all lands with a one percent chance of flooding as determined by the U.S. Soil Conservation Service, [U.S. Army] Corps of Engineers, or a competent registered engineer.

*31.15. Home occupation.* An occupation of gain or support conducted only by members of a family residing on the premises and conducted entirely within the dwelling.

*31.16. Lot.* A portion or parcel of land devoted to a common use or occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

*31.17. Lot width.* The distance between the side lot lines measured at the building line.

*31.18. Major artery.* Any route designated as an interstate route or connector, as a United States route, or any four-lane street or road, or any avenue, street or road designated as a major artery by the City of Carnesville planning commission and shown as such on the official zoning map.

*31.19. Mobile home, residential.*

(Deleted by amendment, May 7, 1991)

*31.19.1. Manufactured home.* A structure, built to conform to national standards embodied in the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 USC 5401 et seq., administered by the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. (Ord. of 5-7-1991, § 1)

*31.19.2. Manufactured home park.* A parcel of land under single ownership which has been planned or improved for the placement of two or more manufactured homes for residential use, including land, buildings and facilities used by the occupants of manufactured homes on such property.

(Ord. of 5-7-1991, § 1)

*31.19.3. Mobile home.* A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to [the] required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein and manufactured prior to June 15, 1976.

(Ord. of 5-7-1991, § 1)

*31.19.4. Modular home.* A factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a permanent



structure to be used for residential purposes and which bears the seal of compliance with regulations of either the Southern Building Code Congress International or the Georgia Industrialized Building Act.

(Ord. of 5-7-1991, § 1)

*31.20. Mobile home park or court.* Any portion or parcel of land designed to accommodate more than two mobile homes to be used for living or sleeping purposes, including any land, building, structure or facility used by the occupants of mobile home on such property.

*31.21. Nonconforming use.* A structure or land lawfully occupied by a use that does not conform to the use regulations of the district in which it is situated.

*31.22. Nursing home.* Any dwelling where persons are housed or lodged and furnished with meals and nursing care of hire.

*31.23. Parking space.* The area required for parking an automobile, which shall be a minimum of nine feet wide and 20 feet long, not including passageways.

*31.24. Sign.* Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization.

*31.25. Sign, business identification.* An attached or freestanding structure on which are announced the nature of the business on the premises and/or the name of the operator of the business.

*31.26. Sign, outdoor advertising.* An attached or freestanding structure conveying some information, knowledge or idea to the public.

*31.26.1. Special exception use.* A use which would not be appropriate without restriction throughout a zoning district and is not automatically permitted by right with a zoning district, but which may be permitted with a zoning district subject to meeting specific conditions (such as controls on number, size, area, location and activities) contained in these regulations or required by the governing body. Such uses may be permitted only if approved by the governing body in accordance with the regulations established herein.

(Ord. of 5-7-1991, § 1)

*31.27. Street.* A public or private thoroughfare which is open to the general public and which affords the principal means of access to abutting property.

*31.28. Structure.* Anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having more or less permanent location on the ground.

*31.29. Yard.* A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.



31.30. *Yard, front.* An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

31.31. *Yard, rear.* An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

31.32. *Yard, side.* An open, unoccupied space on the same lot with a main building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

**Cross reference**—Definitions generally, § 1-2.

#### **ARTICLE IV ESTABLISHMENT OF DISTRICTS: PROVISION FOR OFFICIAL ZONING MAP**

##### **Section 41. Use districts.**

For the purpose of this ordinance, the City of Carnesville is hereby divided into use districts as set out below:

1. Single-family residential (R-1)
2. Two-family residential (R-II)
3. Neighborhood shopping district (NS)
4. Highway business district (HB)
5. Office business district (OB)
6. Central business district (CBD)
7. Industrial district (I)
8. Flood hazard area (FH)

##### **Section 42. District boundaries.**

The location and boundaries of the above-listed districts are hereby established as shown on a map entitled, "Official Zoning Map of Carnesville, Georgia." Said map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bear the seal of the town [city] or that of a notary public under the following words: "This is to certify that this is the Official Zoning Map referred to in Article IV of the Zoning Ordinance of Carnesville, Georgia," together with the date of the adoption of the ordinance.

If, in accordance with the provisions of this ordinance and the laws and constitution of the State of Georgia, changes are made in district boundaries or other matters 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 council, with an entry on the official zoning map as follows: "On (date), by official action of the City Council, the following change (or changes) were made in the Official Zoning Map: (brief description of change)," which entry shall be signed by the mayor and attested by the city clerk. No amendment to this ordinance which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on said map.

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 ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance.

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 the office of the mayor, City of Carnesville, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the town [city].

#### **Section 43. Official zoning map.**

The official zoning map of the City of Carnesville, Georgia, is hereby designated as section 43 of this ordinance.

#### **Section 44. Replacement of official zoning map.**

In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the city council may adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may 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 or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bear the seal of the city or a notary public under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as section 43 of the Zoning Ordinance of the City of Carnesville, Georgia."

Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

#### **Section 45. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

- 45.1. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or railroad right-of-way lines or such lines extended, such centerlines, street lines, or railroad right-of-way lines shall be construed to be such boundaries.



- 45.2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- 45.3. Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways or railroads, or rights-of-way of [the] same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- 45.4. Where district boundaries follow a stream, lake or other body of water, said boundaries shall be construed to be at the limits of the jurisdiction of the City of Carnesville unless otherwise indicated.
- 45.5. Where district boundaries appear to follow corporate lines, such boundaries do follow the corporate lines.

**Section 46. District boundary line divides a lot of single ownership.**

Where a district boundary line as appearing on the zoning map divides a lot in single ownership at the time of the enactment of these regulations, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot provided that such extension shall not include any part of such lot more than 35 feet beyond the district boundary line, and provided further that this provision shall not apply to a through lot. In the case of a through lot, the restrictions of the district applying the adjoining lots which front on the same street as the proposed use of the lot shall apply.

**ARTICLE V GENERAL PROVISIONS**

**Section 51. Zoning affects every building and use.**

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, and without first obtaining a building or occupancy permit, except as hereinafter provided. In the enforcement of the provisions of this ordinance, the building inspector may withhold building or occupancy permits until all provisions of this resolution are complied with or his decision is appealed to the board of appeals.

**Section 52. Continuance of a nonconforming use.**

Any structure or use of land existing at the time of the enactment or subsequent amendment of this ordinance, but not in conformity with its use regulations and provisions, may be continued with the following limitations. It shall not be:

- 52.1. Changed to another nonconforming use.
- 52.2. Reestablished after discontinuance for one year.
- 52.3. Extended except in conformity with these regulations.



52.4. Rebuilt, altered or repaired after damage exceeding 75 percent of the fair sales value of the building immediately prior to damage.

**Section 53. Only one principal building on any lot.**

Only one principal building and its customary accessory buildings may hereafter be erected on any lot.

**Section 54. Street access.**

No building shall be erected on a lot which does not abut a publicly dedicated or maintained street.

**Section 55. Height and density.**

No building shall hereafter be erected or altered so as to exceed height limit, or to exceed the density regulations of this ordinance for the district in which it is located.

**Section 56. Reduction of lot area prohibited.**

No lot shall be reduced in size so that lot width, yard requirements, lot area per dwelling unit, or other requirements of this ordinance are not maintained.

**Section 57. Off-street automobile parking and storage.**

Off-street automobile parking or storage space shall be provided on every lot on which any of the following uses are hereafter established in all districts, except commercial district or provided that no parking space can be reasonably provided on the same lot, such space shall be provided on any lot a substantial portion of which is within 400 feet of such uses. The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use at the same time, except that one-half of the parking space required for churches, theaters, or assembly halls whose [of which the] peak attendance will be at night or on Sundays. Each automobile parking space shall be not less than 200 square feet in area exclusive of adequate access drives and maneuvering space. Maneuvering space shall be provided (except for single-family residences) to prevent any vehicle from backing into the street. Such space shall be provided with vehicular access to a street or alley; such use shall not thereafter be encroached upon or altered; and shall be equal in number to at least the minimum requirements for the specific use set forth below. When application of said provision results in a fractional space requirement, the next larger requirement shall prevail.

*Use Classification*

Automobile sales and repair

*Parking Space Requirement*

One space for each two employees at maximum employment on a single shift, plus two spaces for each 300 square feet of repair or maintenance space.

<i>Use Classification</i>	<i>Parking Space Requirement</i>
Bowling alleys	Two spaces for each alley, plus one additional space for each two employees.
Elementary schools and junior high schools, both public and private	One space for each classroom and administrative office.
Filling station	Two spaces for each gas pump, plus three spaces for each grease rack or similar facility.
Hospitals	One space for each two patient beds, plus one space for each staff or visiting doctor, plus one space for each three employees, including nurses.
Mortuary or funeral home	One space for each four seats in the assembly room or chapel.
Motel, tourist homes or tourist courts	One space for each accommodation, plus two additional spaces for employees.
Offices, professional, business or public, including banks	One space for each 200 square feet of gross floor area.
Places of public assembly including private clubs, lodges, and fraternal buildings not providing overnight accommodations, auditoriums, dancehalls, pool rooms, theaters, stadiums, gymnasiums, amusement parks, community centers, libraries, museums, and all similar places of public assembly	One space for each 200 square feet provided for patron use, plus one space for each 100 square feet of floor or ground area used for amusement or assembly but not containing fixed seats.
Rooming[houses] and boardinghouses	One space for each two guestrooms, plus one additional space for the owner, if resident on the premises.
Residential dwellings	One space for each dwelling unit.
Restaurants	One space for each 75 feet of floor area devoted to patron use, plus one space for each four employees.
Retail business	One space for each 200 square feet of total floor area.
Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions	One space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for each four employees.



*Use Classification*

*Parking Space Requirement*

Senior high schools, both public and private

One space for each 20 pupils for which the space was designed, plus one space for each classroom and administrative office.

Trailer parks

One space for each sleeping unit.

Wholesaling and industrial uses

One space for each two employees at maximum employment on a single shift.

**Section 58. Off-street loading and unloading spaces.**

Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purpose of this section, an off-street loading space shall have minimum dimensions of 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

58.1. *Retail business.* One space for each 3,000 square feet of floor area or fraction thereof.

58.2. *Wholesale and industry.* One space for each 10,000 square feet of floor space or fraction thereof.

58.3. *Terminal facilities for trucks, buses, or railroads.* One space for each bus or truck to be stored or loading or unloading at the terminal at any one time.

**ARTICLE VI USE REQUIREMENTS FOR RESIDENTIAL DISTRICTS**

*Section 61 replaced - see front of book*

**Section 61. Residential I—Single-family district (R-1).**

**Purpose.** It is the intent of this section to establish and preserve quiet, single-family home neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Within a single-family residential district (R-1), the following uses shall be permitted:

1. Single-family dwelling.
2. Churches or other places of worship.
3. Public or private schools offering general education courses.
4. Country club or golf courses, except miniature course or practice driving range operated for commercial purposes.
5. Where the rear yard abuts upon a street, no accessory building shall be closer to the rear lot line than the required front setback for the zone.



6. Accessory uses may generally be considered as private garages, storehouses, noncommercial greenhouses, children's playhouses, summer houses and home workshops, swimming pools, provided that auto repair facilities shall not be included.
7. Farms, truck garden, and noncommercial greenhouses shall be permitted subject to the approval of the planning commission.

Within a single-family residential district (R-1), the following special exception uses shall be permitted, subject to the public hearing and procedural requirements set forth in this ordinance:

1. Manufactured homes and modular homes, but not including mobile homes, subject to the following requirements:
  - a) The minimum width of said structure shall be at least 16 feet. Said structure must be a doublewide manufactured home. Singlewides can only be put in a mobile home park or subdivision for trailers only.
  - b) The minimum square footage of said home shall be at least 900 square feet of area.
  - c) All towing devices, wheels, axles and hitches must be removed.
  - d) At each exit door there must be a landing that is a minimum of 36 inches by 36 inches.
  - e) The roof shall have a minimum two to 12 roof pitch (two feet of vertical height for each 12 feet of horizontal width) and shall have a surface of wood shakes, asphalt composition, wood shingles, concrete, fiberglass or metal tiles, slate, builtup gravel materials, or other materials approved by the city council.
  - f) The exterior siding materials shall consist of wood, masonry, concrete, stucco, masonite, or vinyl lap or other materials of like appearance.
  - g) Each home shall be provided with anchors and tiedowns such as cast-in place concrete deadmen or other devices which secure the stability of the home, as approved by the administrative officer.
  - h) Each home shall be completely skirted with an appropriate barrier, properly ventilated, to enclose the area between the bottom of the structure and the ground. Such skirting shall not be required for those homes with a complete masonry or concrete perimeter foundation. Skirting must be of a properly manufactured type used for manufactured homes. The city council reserves the right to inspect such skirting. Failure to comply to appropriate skirting will result in item (l) [subsection 1.l] of this amendment being enforced.
  - i) Each home shall be established in accordance with the installation instructions from the manufacturer, as appropriate.
  - j) All utility connections including, but not limited to, water, sanitary sewer/septic tank, electricity and gas shall be made as required by the administrative officer.



- k) Said home shall compare favorably to site built and other housing in the immediate general area within the same zoning or residential district or area.
- l) Said homeowner has 90 days to comply with these requirements. If [such] requirements are not fulfilled in 90 days, city services will be discontinued, and reconnect fees will be charged to [the] homeowner, or the name of the person deposits and permits are in. Reconnection will only occur after meeting requirements set down in this ordinance.

Provided, however, that the administrative officer may recommend, and the city council may approve, deviations from one or more of the developmental and architectural standards provided herein on the basis of a finding that the materials to be utilized will be compatible and harmonious with existing structures in the vicinity.

(Ord. of 5-7-1991, § 2; Ord. of 12-2-1997)

## **Section 62. Two-family and multifamily residential district (R-II)**

Purpose. It is the intent of this section to establish and preserve a number of quiet residential districts offering a wide choice of housing types within the city which in the judgement of the planning commission are suitable for both single[-family] and multifamily residential development, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Within a two-family and multifamily residential district (R-II), the following uses shall be permitted:

1. Any use permitted in the single-family (R-1) residential district.
2. Two-family dwellings.
3. Multiple-family dwelling units.
4. Rooming[houses] or boardinghouses accommodating more than two persons.
5. Institution of a religious, educational, charitable or philanthropic nature, but not a penal institution.
6. Nursing or convalescent home.
7. Private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is a service customarily carried on as a business.
8. Accessory buildings or uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business, including a storage garage on a lot occupied by a multiple dwelling, hospital or institution.
9. No signs exceeding 12 square feet in area will be permitted to identify R-II zone uses. Such signs shall be located not less than 15 feet from the front lot line of the property so identified.

Within the two-family and multifamily residential district (R-II), the following special exception uses shall be permitted, subject to the public hearing and procedural requirements set forth in this ordinance:

1. **Manufactured home parks**, subject to the following requirements:
  - a) The front, side and rear setback requirements shall apply to the exterior boundaries of the park.
  - b) There shall be a lot of not less than 10,000 square feet for each manufactured home space.
  - c) Manufactured homes shall be separated at least 30 feet from internal and external roadways.
  - d) A minimum of two acres shall be devoted to manufactured home park purposes.
  - e) All state and local health codes are met.
  - f) A site plan showing the proposed layout of the manufactured home park is submitted and approved by the city council as part of the special exception application.
  - g) The manufactured home park is found not to be detrimental to the surrounding land uses and properties or the neighborhood.

(Ord. of 5-7-1991, § 3)

## **ARTICLE VII USE REQUIREMENTS FOR COMMERCIAL DISTRICTS\***

### **Section 71. Neighborhood shopping district (NS).**

Purpose. It is the intent of this section to permit the development of land for business uses which are designed to meet the daily needs of surrounding residential areas, and to ensure that the proposed uses will not produce a volume of traffic which is detrimental to residential areas.

The following uses shall be permitted in the neighborhood shopping district (NS):

1. Any use permitted in the single-family (R-1) residential district.
2. Branch banks.
3. Clinics.
4. Filling stations.
5. Florist shops.
6. Offices and office buildings.
7. Self-service laundries.
8. Household appliances and furniture sales.

\*Cross reference—Businesses, ch. 14.



9. Bakeries, but only when the products are sold at retail on the premises.
10. Retail stores, provided that in connection with such stores there shall be no slaughtering of animals or poultry on the premises.
11. Personal service uses including barbershops, beauty parlors, photographic or artist studios, messengers, taxicabs, newspaper or telegraphic, service stations, dry cleaning receiving stations, restaurants and other personal services of a similar character.
12. Dressmaking, tailoring, shoe repairing, repair of household appliances and bicycles, catering, dry cleaning and pressing, and other uses of a similar character provided that no use permitted in this paragraph shall employ more than five persons in a single shift on the premises, not including employees whose principal duties are off the premises or temporary seasonal employees.

**Section 72. Highway business district (HB).**

Purpose. It is the intent of this section to establish and preserve commercial areas where customers reach individual businesses primarily by automobile with a minimum amount of pedestrian traffic between establishments.

The following uses shall be permitted in the highway business district (HB):

1. Any use permitted in the neighborhood shopping district (NS).
2. Advertising sign or billboard, when located at least 50 feet from any residential district.
3. Automobile or trailer display and salesroom.
4. Business or commercial school.
5. Bowling alley when located not less than 100 feet from any residential district.
6. Hotel or motel.
7. Restaurant.
8. Theater and drive-in theater.
9. When located at least 50 feet from any residential district:
  - a) Used car sales and storage lot.
  - b) Sales of small boats.
10. Farm implement display and salesroom.
11. Parking or public garage.
12. When not employing more than ten persons on the premises: dyeing and cleaning establishment or laundry, painting, plumbing or tinsmithing shop, printing shop, tire sales and service, including vulcanizing, upholstering shop, not involving furniture manufacture. Any other general service or repair establishment of similar character.
13. Accessory building or use customarily incidental to any of the above uses.

14. Bus terminal, passenger.

### **Section 73. Office business district (OB).**

Purpose. To establish and preserve areas for employment activity and services to the public which do not materially detract from nearby residential uses.

Within an office business district (OB), the following uses shall be permitted:

1. Offices of business, professional or financial organizations, or individuals.
2. Offices of labor unions, civic, social, fraternal and other nonprofit organizations.
3. Laboratories and other research facilities, where all activity and equipment, including ventilation and other equipment on roofs, is [are] housed in a fully enclosed building or screened so as not to be visible from off the lot, and where no noise or odors are created which are discernible beyond the boundaries of the lot.

All architecture must be compatible with other architecture in the surrounding area and must be approved by the planning commission before any permits will be issued.

### **Section 74. Central business district (CBD).**

Purpose. To establish and preserve a compact business district convenient and attractive for a wide range of retail uses, business transactions, government and professional offices, places of amusement, employment activity, and service to the public designed primarily to meet the day-to-day shopping and service needs of the city and the surrounding area.

Within a central business district (CBD), the following uses shall be permitted:

1. Any use permitted in the highway business (HB) district and without restriction as to the number of employees.
2. Storage warehouse, provided said warehouse is accessory to a retail establishment.
3. Wholesaling establishment.
4. Printing, publishing or engraving.
5. Animal hospital or veterinary clinic.
6. Automobile parts sales store.
7. Automobile sales and storage.
8. Automobile washing establishments.
9. Bowling alleys.
10. Bus terminals.
11. Business and outdoor advertising signs.
12. Dry cleaning and laundry establishments.
13. Electrical repair shops.



14. Fabricating shops of small size such as woodwork shops, cabinet shops, and upholstery shops.
15. Farm equipment sales and service.
16. Funeral homes or mortuaries.
17. Gasoline service stations.
18. Greenhouses or horticultural nurseries.
19. Motels.
20. Public and semipublic recreational facilities.
21. Repair garages.
22. Restaurants, including drive-in restaurants.
23. Customary accessory uses and structures, when located on the same lot as the main structure.
24. Any other use of a similar character and which is not more objectionable by reason of the emission of odor, dust, smoke, gas, fumes, noise or vibration than the uses herein enumerated.

#### **ARTICLE VIII USE REQUIREMENTS FOR INDUSTRIAL DISTRICTS\***

##### **Section 81. Industrial district (I).**

Purpose. To locate areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses and to make provision for certain kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of people in these areas.

Within the restricted industrial district (I), the following uses shall be permitted:

1. Any warehousing, wholesaling, storage or manufacturing.
2. Bottling works.
3. Lumber[yard] and storage yard, including construction yard and contractor's yard.
4. Coal[yard] or wood yard.
5. Storage of petroleum products, but only after the location of the premises have [has] been approved by the fire chief and further provided that mobile home parks or residences shall not be located within 500 feet of the location.
6. Textile manufacturing or processing.
7. Fabrication of wood and metal products.
8. Truck or transfer terminal or freight house, or bus garages and repair shop.

---

\*Cross reference—Businesses, ch. 14.

9. Ice manufacturing plant.
10. Laboratory - experimental, film or testing.
11. Any industrial use, provided that such use shall not be likely to be dangerous, offensive or detrimental to the health, safety, welfare, or general character of this zoning district or of the community by reasons of the emission of dust, gas, smoke, noise, fumes, odors, vibrations, glare or otherwise.
12. Wholesale establishments, including building material yards.
13. Accessory uses and buildings which are clearly incidental to a permitted use and which will not create a nuisance or hazard.
14. Any building or land may be used for any purpose not in conflict with any ordinance of Franklin County regulating nuisances; provided, however, that no building shall be erected, reconstructed or structurally altered for residential purposes except for resident watchmen and caretakers employed on the premises.
15. No permit shall be issued for any of the following uses until and unless the location of such use shall have been approved by the planning commission and the city council.
  - a) Acid manufacture.
  - b) Cement, lime, gypsum or plaster of Paris manufacture.
  - c) Stockyards, or slaughter of animals.
  - d) Ammonia, chlorine or bleaching powder manufacture.
  - e) Asphalt manufacture or refining.
  - f) Auto wrecking and junkyard.
  - g) Coal, tar products manufacture.
  - h) Linoleum manufacture.
16. The following uses shall not be permitted in this or any other district:
  - a) Distillation of bones and glue manufacture. ✓
  - b) Explosive manufacture or storage. ✓
  - c) Fertilizer manufacture. ✓
  - d) Garbage, offal or dead animals, reduction or dumping. ✓
  - e) Petroleum or its products, refining of.
  - f) Paper or paper pulp manufacture.
  - g) Smelting of tin, copper, zinc or iron ores. ✓



AREA, YARD AND HEIGHT REQUIREMENTS

District	Minimum Lot Size		Minimum Yard Requirements					Maximum Height in Feet	
	Area in Feet	Square Feet Per Family	Lot Width in Feet	Front Yard Setback			Side Yard in Feet		Rear Yard in Feet
				Major Artery	Minor Artery	Other Streets			
Residential									
Single-family (R-1)	15,000	15,000	100	40	35	35	20	25	35
Two-family (R-II)	15,000	7,500	100	30					
Multifamily (R-II)	7,500	7,500 1-F 4,500 2-F 3,000 3-F or more							
Mobile home park	2 acres	5,000							
Commercial									
Neighborhood shopping (NS)									
Highway business (HB)				35	25	20	10(b)	20(d)	35
Central business district (CBD)				35	25	20	10(b)	20(d)	35
Office business				35	25	20	(b)	(c)(d)	35
Industrial									
Industrial district (I)							(b)(c)(d)	(c)(d)	35

See district in which park is located

(a) Corner lots must have an additional width of 15 feet along the side street line.

(b) None required, but if provided each side yard shall be at least ten feet in width.

(c) Where a lot abuts any residential district, there shall be a side or rear yard clearance of at least ten feet on side and/or rear yard abutting the residential district.

(d) Upon any side or rear lot line which abuts a residential district, there shall be a densely planted buffer strip at least six feet in height along the rear and/or side lot line abutting the residential properties. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lot.

**ARTICLE IX REQUIREMENTS FOR FLOOD HAZARD DISTRICTS\*****Section 91. Flood hazard (FH) districts.**

Purpose. It is the intent of this section to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas of the city by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property due to water or erosion hazards or which result in damaging increases in erosion or in historical flood heights or velocities.
2. Discourage individuals from buying lands which are unsuited for development or other intended uses due to flood or erosion conditions.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.
4. Control filling, grading and mineral extraction which may increase erosion or flood damage.
5. Prevent and regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

**91.1. Findings of fact.**

1. *Flood losses resulting from periodic inundation.* The hazard areas of the City of Carnesville are subject to periodic inundation which could result in the loss of property, create health and safety hazards, disrupt commerce and government services, call for extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely effect the public health, safety and general welfare.
2. *Methods used to analyze flood hazards.* Reasonable means were employed in the delineation of both the flood hazard area (approximately one percent chance) or 100-year flood level. The following information was used to delineate these districts and reference is made to the following map: Department of Housing and Urban Development, Federal Insurance Administration Flood Hazard Boundary Map No. H-01, City of Carnesville, Georgia, Revised January 16, 1976.

**Section 92. Flood hazard (FH) districts—Permitted uses.**

The uses listed below which have low flood damage potential and do not threaten other lands during times of flood shall be permitted within FH districts, provided they are not prohibited by any other ordinance, and do not require: storage of materials, structures, flood control works, substantial filling or grading, or disturbance of stream banks or existing stream

\*Cross reference—Floods, ch. 26.



carrying capacities. No use shall be permitted which will impede or otherwise adversely effect the capacity of the channel or floodway of a stream, drainage ditch or any other drainage facility or system.

1. Agricultural uses such as general farming, pasturing, grazing, horticulture, viticulture, truck farming, forestry, and wild crop harvesting are permitted uses.
2. Industrial-commercial uses such as loading areas, temporary parking areas, and employee outdoor recreation may be permitted, provided [that] such areas are not fenced, excluding pasture fence.
3. Public or private recreational uses such as open space, boat docks, beaches, boat ramps, picnic tables and shelters, and other small platforms not subject to flood damage, golf courses, tennis courts (not fenced or lighted), driving ranges, archery ranges, swimming areas, trap and skeet ranges where other safety factors permit hiking, and horseback riding trails, etc.
4. Unlighted, unfenced parking areas constructed with a permeable surface (such as gravel) which will not inhibit the soil's ability to absorb floodwaters or cause surface material to wash into streams.

### **Section 93. Special exception uses within FH districts.**

The following uses may be permitted only upon application to and approval by the planning commission and city council and the issuance of a special use permit by the zoning administrator as provided for in this ordinance:

1. Uses of structures accessory to open space or special exception uses, provided [that] they are not subject to floodwater damage, are properly anchored, and present no threat to the impairment of the free flow of such floodwaters.
2. Circuses, carnivals and similar transient amusement enterprises, provided [that] they are informed of the flood hazard and the nature of such flooding and are willing to assume all liabilities associated with the use of such an area.
3. Drive-in theaters, provided no structures are located within an FH district.
4. New and used car storage, signs, and billboards.
5. The construction of soil erosion control and prevention structures or protective barriers, provided they do not enhance floodwaters up[stream] or downstream or on other lands.
6. Kennels and/or stables, provided adequate means of escape are provided for any animals to be confined therein.
7. Railroads, highways, local streets, utility transmission lines and poles and bridge structures, provided [that] they are properly constructed so as to not represent an impairment of the normal floodway and do not enhance flooding upstream or on adjacent lands.



8. Other uses similar in character to uses described herein which are consistent with the intent of this ordinance as set out herein.
9. Incidental, accessory, and principal use signs.
10. No residences or other places of human habitat, domicile, or lodging shall be permitted within [an] FH district.
11. No solid or liquid waste disposal sites shall be permitted within an FH district unless approved by the planning commission and the city council. The wastewater treatment facility of the City of Carnesville is expressly permitted under this ordinance.
12. No commercial or industrial use having outside storage of chemicals, building materials, petroleum products, fertilizers, poisons, or other materials possessing a potential for being irreparably damaged by or doing irreparable damage to surface waters or surrounding property shall be permitted.
13. No use which requires the use of subsurface storage tanks or other floatable structures shall be permitted within an FH district.

## **ARTICLE X EXCEPTIONS AND MODIFICATIONS**

### **Section 101. Existing lots.**

Where the owner of a lot consisting of one or more lots of official record in any district at the time of the adoption of this ordinance or his successors thereto does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this ordinance, such lot may be used as a building site; provided, however, that the requirements of this district are complied with or a variance is obtained from the zoning board of appeals.

### **Section 102. Adjoining and vacant lots of record.**

If two or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of the adoption of these regulations and such lots individually are less than 50 feet in width, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subject to the requirements of these regulations.

### **Section 103. Front yard setbacks for dwellings.**

The front yard setback requirements of this ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the same block and use district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten feet of the street right-of-way line, whichever is greater.



**Section 104. Height limitations.**

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, radio towers, television towers, masts, aerials and similar structures, except as otherwise provided in the vicinity of airports.

**Section 105. Visibility at intersections.**

On a corner lot in any zoning district, except the highway business district (HB), no planting, structure, fence, wall or obstruction to vision more than three feet in height measured from the centerline of the street shall be placed or maintained within the triangular area formed by the intersecting street lines and a straight line connecting points on said street lines each of which is 25 feet distant from the point of intersection.

**Section 106. Corner lots.**

The side yard setback requirements for corner lots shall be the same as the front yard setback requirements for the next adjacent lot fronting on the street that the side yard of the corner lot faces, and a second front yard on one-half the depth generally required for [the] front yard shall be provided on the other frontage.

**Section 107. Group housing project.**

In the case of two or more buildings to be constructed on a plot of ground of at least two acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this ordinance may be varied by the board of appeals in a manner that will be in harmony with the character of the neighborhood, provided [that]:

- a) Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the board authorize a use prohibited in the district in which the project is to be located.
- b) The overall intensity of land use is no higher, and the standard of open space is no lower than that permitted in the district in which the project is located.
- c) The distance of every building from the nearest property line shall meet the front yard setback and side yard [setback] requirements of the district in which the project is located.
- d) The building heights do not exceed the heights limits permitted in the district in which the project is located; and
- e) If the property lies within or abuts upon a residential district, and is to be used for a nonresidential purpose, there shall be a densely planted buffer strip at least six feet in height along the rear and/or side lot lines abutting the residential properties. No such buffer shall, however, extend nearer to a street right-of-way than the established building line of the adjoining residential lot.



**ARTICLE XI ADMINISTRATION, ENFORCEMENT AND PENALTIES\*****Section 111. Zoning enforcement office.**

The building and zoning office acting by and through its personnel is hereby authorized, and it shall be its duty to enforce and administer the provisions of this ordinance.

**Section 112. Building permit required.**

No building or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the building and zoning office has issued a building permit for such work.

**Section 113. Application for building permit.**

Each application to the building and zoning office for a building permit shall be accompanied by plot plans in duplicate showing:

- a) The actual dimensions of the lot to be built upon;
- b) The size of the building to be erected;
- c) The location of the building on the lot;
- d) The location of existing structures on the lot, if any;
- e) The number of dwelling units the building is designed to accommodate;
- f) The approximate setback lines of buildings on adjoining lots; and
- g) Such other information as may be essential for determining whether the provisions of this ordinance are being observed.

Any building permit issued shall become invalid 12 months after date of issue subject to being renewed upon application to the building and zoning office.

**Section 114. Certificate of occupancy required.**

A certificate of occupancy issued by the building and zoning office is required in advance of the use of occupancy of:

- a) Mobile homes;
- b) A building hereafter erected, altered or moved;
- c) A change of use of any building or land;
- d) Any nonconforming use that is existing at the time of the enactment of this ordinance or an amendment thereto that is changed, extended, altered, or rebuilt thereafter. The certificate of occupancy shall state specifically wherein the nonconforming use fails to meet the provisions of this ordinance.

---

\*Cross reference—Administration, ch. 2.



A certificate of occupancy, either for the whole or a part of a building, shall be applied for coincident with the application for a building permit and shall be issued within ten days after the creation of structural alterations of such building, or part, shall have been completed in conformity with the provisions of the ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the certificate of occupancy is denied, the building and zoning office shall state in writing the reasons for refusal. A record of all certificates shall be kept on file in the building and zoning office and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

#### **Section 115. Penalties for violation.**

Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished for each offense as provided by law. Each day such violation continues shall be deemed a separate offense.

#### **Section 116. Remedies.**

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this ordinance, the building and zoning office or any other person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action of proceeding to prevent such violation.

### **ARTICLE XII BOARD OF APPEALS**

#### **Section 121. Establishment; jurisdiction.**

A board of appeals is hereby established and it shall be known as the City of Carnesville, Georgia, Board of Appeals. Such board shall be composed of the mayor and city council of Carnesville and shall have full and complete jurisdiction as provided by law.

(Ord. of 5-7-1991, § 4)

#### **Section 122. Meetings; officer to administer oaths and compel attendance of witnesses; minutes required and filed as public record.**

Meetings of the board of appeals shall be at the call of the chairman, and at other such times as the board may determine. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent, of failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.



The board may appoint a secretary to serve the board. He shall maintain all records and perform all services required by the board to fulfill its responsibilities.

**Section 123. Appeals—How taken.**

Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department board, or bureau of the city affected by any decision of the building inspector. Such appeals shall be taken within a reasonable time, as provided in the rules of the board, by notifying the officer from whom the appeal is taken and filing with the secretary of the board of appeals a notice of the appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the secretary of the board all papers constituting the record upon which the action appealed from was taken.

**Section 124. Same—Notice of hearing.**

The board of appeals shall fix a reasonable time for the hearing of the appeal or other matters referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon a hearing, any party may appear in person or by agent or by attorney.

**Section 125. Same—Stay of proceedings; exception.**

The board of appeals shall have the following powers:

- a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
- b) To hear and decide special exceptions to the terms of this chapter upon which such board is required to pass under this chapter.
- c) To authorize upon appeal in specific cases such variance from the terms of the chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the chapter will in an individual case result in practical difficulty or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of practical difficulty or unnecessary hardship upon a finding by the board of zoning appeals that:
  1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and
  2. The application of the chapter to this particular piece of property would create practical difficulty or unnecessary hardship; and
  3. Such conditions are peculiar to the particular piece of property involved; and
  4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter.



In order to make a variance permissible, certain conditions shall be shown:

- a) There must be a proven hardship by showing beyond a doubt the inability to make a reasonable use of the land if the zoning ordinance were applied literally.
- b) The hardship cannot be self-created; e.g., it cannot be claimed in terms of prospective sales.

**[Section 126. Reserved.]**

**Section 127. Use variance.**

No variance may be granted for a use of land or building or structure that is prohibited by this chapter.

**Section 128. Action on appeal.**

In exercising its power, the board of appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partially, or may modify the order, requirements, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

**ARTICLE XIII AMENDMENTS**

**Section 131. Authority to amend.**

The governing body may from time to time amend the number, shape, boundary or area of any district, or may amend any regulation pertaining to any district; or may amend any article or section of these regulations. The procedure for amending these regulations shall be as provided in this article.

(Ord. of 5-7-1991, § 5)

**Section 132. Criteria to consider for map amendments.**

The applicant, planning commission and governing body should review an application for zoning map amendment with regard to the following criteria:

1. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.
2. The extent to which property values are diminished by the particular zoning restrictions.
3. The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.
4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner.



5. The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.
6. The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the rezoning request.
7. The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.
8. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans.

The planning commission and governing body may consider other factors deemed relevant before formulating recommendations and taking action on a particular request.

(Ord. of 5-7-1991, § 5)

### **Section 133. Public notice and public hearing required.**

This section shall apply to all applications for amendments to the text of the zoning regulations, amendments to the official zoning map, petitions for variances and appeals to the board of appeals, and requests for special exceptions.

Upon a receipt of a completed application, fees and other information required by this article, the administrative officer or city clerk shall cause notice of such application to be published at least one time in a newspaper of general circulation in the community at least 15 days but not more than 45 days prior to the date of public hearing before the governing body. Said published notice shall include, as a minimum, the purpose, location, date and time of the public hearing before the governing body, the location of the property being considered, the present zoning classification of the property, and proposed action to be taken, as appropriate, such as proposed zoning district, type of special exception use, variance to particular articles and sections, and so forth. The administrative officer or city clerk shall also cause to have posted in a conspicuous place on said property one or more sign(s), each of which shall contain the information specified for published notices. No public hearing shall take place until said sign(s) have been posted for at least 15 days prior to the date of the public hearing.

All required public hearings shall be held by the governing body, and no action shall be taken on said applications until a public hearing has been held by the governing body. The planning commission shall also consider each matter, but said meeting shall not require a public hearing in accordance with the provisions of this section.

Public hearings regarding variances and appeals shall be held by the board of zoning appeals, and no action shall be taken on said applications until a public hearing has been held by the board of zoning appeals.



Public hearings may be delayed, rescheduled or continued at another time and date, provided announcement is given at the time and place of the initially scheduled and advertised public hearing, and provided such date, time and location of the public hearing to be delayed, rescheduled or continued is given.

(Ord. of 5-7-1991, § 5)

#### **Section 134. Planning commission recommendation.**

Prior to the public hearing held by the governing body, the planning commission shall meet on all applications for amendment to the text of the zoning regulations and amendments to the official zoning map.

After completing its studies of the particular petition, the planning commission shall submit a recommended action in writing to the governing body. The planning commission may submit any additional report it deems appropriate. The recommendations of the planning commission shall have an advisory effect only and shall not be binding on the governing body. Copies of the planning commission's recommendations and reports shall be made available to the applicant and other interested parties upon completion and distribution to the governing body and at the public hearing before the governing body.

The planning commission shall have 30 days within which to submit its recommendations. The governing body shall not take action on any of said applications, until it has received the recommendation of the planning commission within the specified time period. If the planning commission fails to submit a recommendation within the 30-day period, it shall be deemed to have approved the proposed application.

(Ord. of 5-7-1991, § 5)

#### **Section 135. Conduct of public hearings.**

All public hearings regarding applications considered by the governing body shall be held in accordance with any procedures adopted by said body and, in addition, shall be governed by the following procedures:

1. The presiding officer shall open the hearing by stating the specific application being considered at the public hearing. At this time, the presiding officer may summarize the public hearing procedure.
2. The city clerk or other staff person may present a description of the proposed application, any applicable background material, his/her recommendation regarding action on said application, as appropriate, and the recommendations and reports of the planning commission, as appropriate.
3. Persons who support the application will be asked to comment first. The petitioner may, upon recognition and upon statement of name and address, present and explain his application. The petitioner, or his designated agent, shall be required to attend the public hearing unless written notice of hardship is received prior to such meeting.



Failure of the petitioner or agent to attend the public hearing or meeting, except in cases of hardship, may be due cause for dismissal or denial of such application. A time limitation may be imposed at the discretion of the presiding officer.

4. Persons who oppose the application will be asked to comment next. All interested parties after being recognized shall be afforded an opportunity to address the proposed application by standing before the appropriate body and identifying their name, address and interest along with any comments on the proposed application. A time limitation may be imposed at the discretion of the presiding officer.
5. The petitioner shall have an opportunity for summary remarks and rebuttal concerning the proposed application.
6. Upon the completion of any comments from interested parties and the petitioner, the public hearing shall be completed and adjourned.
7. All public comments having been heard, the members of the body considering the application may discuss the request among themselves. During this discussion period, the members of the body may call on the petitioner or other interested parties to clarify points made previously or to answer questions. Said petitioner or interested parties may respond upon recognition.

(Ord. of 5-7-1991, § 5)

#### **Section 136. Action by the governing body.**

After the public hearing has been completed, the governing body may take action to approve or deny the request, refer the application back to the city clerk or planning commission for further study, or the governing body may table or defer action until a later meeting.

(Ord. of 5-7-1991, § 5)

### **ARTICLE XIV LEGAL STATUS PROVISIONS**

#### **Section 141. Conflict with other regulations.**

Whenever the regulations of this ordinance require a greater width or size of yards, courts, or other open space, or require a lower height of buildings or lesser number of stories or require a greater percentage of lot to be left unoccupied, or imposed other more restrictive standards than are required in or under any other statutes, the regulations and requirements of this ordinance shall govern.

#### **Section 142. Validity.**

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.



**Section 143. Effective date.**

This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

Effective date of enforcement: August 12, 1980.

Section 61. Residential 1 – Single-family district R-1

- (a) The single-family residential district R-1 allows for up to three dwelling units per acre with provisions for customary accessory use. Commercial, industrial or other uses that would interfere with the residential character of this district are prohibited. All building shall conform to the minimum requirements for setbacks and height detailed herein.
- (b) Within the R-1 residential district the following uses are permitted:
  - (1) Single-family dwellings, minimum square footage not less than 1,000 sq ft
  - (2) Public and private schools offering general education courses
  - (3) Churches; provided that:
    - (a) They are located on a major collector street
    - (b) The buildings are placed not less than 50 feet from any property line
    - © There is a planted buffer strip at least 10 feet wide along the side and rear property lines.
  - (4) Public and semi-public recreation facilities and grounds
  - (5) **Customary incidental home occupations including, but not limited to, the office of a physician, dentist, lawyer, accountant, artist, musician, architect, engineer, surveyor, beautician, florist or the accommodation of not more than two boarders or roomers; provided, there is no external evidence of such occupation except an announcement or professional sign not more than two square feet in area and that operations are conducted within a dwelling or customary accessory building by not more than one person in addition to those persons living therein.**
  - (6) Customary accessory buildings, including private garages and non-commercial greenhouses and workshops; provided, they are located in the rear or side yard and not closer than five feet to any lot line.
  - (7) Nursery schools or kindergartens provided that there are at least 150 square feet of outdoor play area for each child and the play area is enclosed by a woven wire or similar fence at least five feet high.
  - (8) Church bulletin boards not exceeding 12 square feet in area.
  - (9) Signs not more than eight square feet in area advertising the sale or rental of the property on which they are located.
  - (10) Electric transformers or gas regulator stations, if essential for service to the zoning district in which it is proposed to be located provided that:
    - (a) The structures are placed not less than 50 feet from any property line.
    - (b) No vehicles or equipment are stored on the premises;
    - © The lot is suitably landscaped
    - (d) There is a planted buffer strip at least 10 feet wide along the rear and side property lines.
  - (11) Agriculture.
  - (12) Subdivision signs with an area not more than 30 square feet, one sign for each subdivision to be located on the site.