

Sec. 36-70. Short-term rental. No person shall offer for occupancy or enter into an agreement to allow a dwelling unit, or any other portion of their property, to be used as a short-term rental in a manner not otherwise permitted in the zoning district. (Ord. No. 2596-20, 10-19-20)

Sec. 36-71. Lot provisions.

(a) Limitations. Unless permitted by this section:

- (1) A lot which does not conform with the lot width and lot area requirements of the use district in which the lot is located shall not be a buildable lot unless the lot already contains an occupiable structure.
- (2) A developed lot which does not meet the area or width requirements of this chapter shall not be more intensively developed unless it is combined with one or more abutting lots or parcels of land to create a lot meeting the requirements of this chapter. This provision does not apply to single-family homes.

(b) Lots of record, buildable.

- (1) A lot of record existing upon the effective date of the ordinance from which this chapter is derived in the R-1, R-2, R-3 or R-4 district, which does not meet either the area or width requirements of this chapter may be utilized for single-family detached dwelling purposes if the dimensions of its area and width are at least 66 2/3 percent of the requirements of this chapter. This provision does not include cluster or townhouse lots.
- (2) Any single-family detached dwelling which exists on the effective date of the ordinance from which this chapter is derived on any substandard lot located within the R-1, R-2, R-3 or R-4 district which is later destroyed by fire or other natural disaster or otherwise removed may be rebuilt if a building permit for reconstruction is issued within 365 days of its destruction and if it otherwise is in conformance with the provisions of this chapter.
- (3) Any substandard lot which is in common ownership with an abutting lot on or after the effective date of the ordinance from which this chapter is derived may not be developed and no building permit shall be issued for such development unless the two lots are combined to increase the substandard dimension of the lot to meet the area and width requirements of this chapter. Under these circumstances, only one single-family dwelling may be built on the two lots.

(c) Principal buildings. There shall be no more than one principal building on one lot except by conditional use permit or as provided under section 36-367.

(Code 1976, § 14:4-1)

Sec. 36-72. Required yards and open space.

- (a) The area of a yard, designed outdoor recreation area, or open lot area shall not be reduced below the minimum size required by this chapter.
- (b) If the existing yard is less than the minimum size required by this chapter, it shall not be further reduced in size.
- (c) If the existing designed outdoor recreation area, or open lot area is less than the minimum size required by this chapter, it shall not be reduced in size.
- (d) No yard, designed outdoor recreation area, or open lot area which is required by this chapter for any structures shall be included as a part of any yard or open space which is required by this chapter for another structure.
- (e) On a through lot, both street lines shall be front lot lines for the application of this chapter.

(Code 1976, § 14:4-2, Ord. No. 2267-04, 4-12-2004; Ord. No. 2325-07, 5-7-2007)

Sec. 36-73. Yard encroachments.

(a) Any yard. The following shall not be encroachments on yard requirements provided all structures are located entirely upon the private property of the party requiring or requesting the construction of the structure, the encroachment is within height limitations of this Code, no permanent structure is placed in an easement without first obtaining approval of an encroachment agreement and ornamental structures are constructed so the finished side is facing towards the neighboring properties, exposing the structural side to the party requiring or requesting the structure:

- (1) Yard lights and the nameplate signs for one-family and two-family dwellings in the R-1, R-2 and R-3 districts.
- (2) Floodlights or other sources of light illuminating authorized illuminated signs, or illuminating parking areas, loading areas, or yards for safety and security purposes if these meet the regulations of section 36-363.
- (3) Railroad feeder tracks which provide access to buildings and structures in the C-1, C-2, O, I-P and I-G districts. No loading or unloading may be done from railroad cars on any feeder track in any front yard.
- (4) Canopies no more than 12 feet wide are permitted in the R-4, R-C, C-1, C-2, O, I-P and I-G districts if they are open at the sides, comply with provisions of section 36-76 and provide 14 feet of clearance if located over any access roadway or fire lane.
- (5) Enclosed pedestrian walkways must meet the following standards:
 - a. The walls of the walkway shall conform with the class I exterior materials requirements of this chapter.
 - b. Such walkways may be no more than 16 feet wide and 12 feet in height from floor to ceiling.
 - c. A clearance of 16 feet six inches is required if the walkway is above a traveled roadway.
 - d. The properties connected by the walkways must submit documents that indicate their agreement to build the arrangement for maintenance of the walkway, and under what conditions the walkways might be removed.
 - e. The location of any pedestrian walkway shall be approved by the director of public works and community development director. Approval shall not be granted for any walkway that does not provide a satisfactory means to access any utility or public trail lying under or adjacent to the walkway.
- (6) Driveways, parking areas, and pedestrian sidewalks subject to the requirements of sections 36-162 and 36-361.
- (7) Fences and retaining walls subject to the requirements of section 36-74 and provided the retaining walls are necessary to correct grade differences and height is minimized via terracing where feasible. Where a fence is attached to a retaining wall structure, the retaining wall shall be included in the fence height measurement.

(Ord. No. 2255-03, 11-3-03; Ord. No. 2640-22, 1-18-22)

(b) Principal building - any yard. The following shall not be encroachments on yard requirements for principal buildings provided no permanent structure is placed in an easement without first obtaining approval of an encroachment agreement:

- (1) Balconies, bays and window wells not exceeding a depth of three feet and containing an area of less than 20 square feet.
- (2) Chimney, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, and gutters; provided they do not extend more than three feet into a required yard; and provided such encroachment is no closer than four feet from all lot lines. Building overhangs shall also comply with the state building code.
- (3) Terraces and steps which do not extend more than 2 1/2 feet above the height of the ground floor level of the principal building provided they are a minimum of two feet from any lot line.
- (4) Uncovered porches, stoops, patios or decks which do not extend above the height of the ground floor level of the principal building and are a minimum of two feet from any interior side or rear lot line and 15 feet from any front lot line and do not encroach on any side yard abutting a street.
- (5) Open covered porches that do not contain either windows or screens and are a minimum of five feet from any interior side lot line, nine feet from any side yard line abutting a street, 25 feet from any rear lot line and 20 feet from any front lot line. Porches shall be open between the floor and the ceiling. All railings shall be open utilizing posts and spindles.
- (6) Front entryways not exceeding a depth of 5 feet toward the front lot line and not exceeding a total of 40 square feet in area.
- (7) Awnings, canopies less than 25 feet in width and door hoods for commercial, industrial, office and multi-family buildings of at least 12 residential units may extend to the front and side yard abutting the street lot line. Awnings, canopies and door hoods for single family homes and multi-family buildings of up to 11 residential units may extend up to four feet into a front and side yard abutting the street. For all uses, awnings, canopies and door hoods may extend up to four feet into an interior side and rear yard

(Ord. No. 2312-06, 4-14-06; Ord. No. 2320-06, 12-1-06)

(c) Rear or side yard. The following shall not be encroachments on side and rear yard requirements provided no permanent structure is placed in an easement without first obtaining approval of an encroachment agreement:

- (1) Heating, ventilating and air conditioning equipment in side yards abutting a street and rear yards, but is an encroachment in interior side yards. None of that equipment shall extend more than six feet from the principal structure and the equipment shall be screened from view.
- (2) Railroad spurs and sidings for loading and unloading of railroad cars in the I-P and I-G districts.

(Code 1976, § 14:4-3; Ord. No. 2232-02, § 2, 11-4-2002, Ord. No. 2255-03, 11-3-2003, Ord. No. 2312-06, 4-14-2006, Ord. No. 2320-06, 12-1-2006; Ord. No. 2498-16, 9-6-16; Ord. No. 2640-22, 1-18-22)

Sec. 36-74. Fences.**(a) General provisions.**

- (1) *Permit required.* A permit shall be required prior to the installation of any fence.
- (2) *Submission requirements.* The following information shall be submitted prior to a fence permit being issued:
 - a. Application form and fee.
 - b. Site plan indicating location of fence.
 - c. Fence design indicating height and style of fence.
- (3) *Yards definition.* The definition of yards found in section 36-162(b) shall be used for this section. (Ord. No. 2613-21, 5-17-21)

(b) Fence location.

- (1) All fences shall be located entirely upon the private property of the party requiring or requesting the construction of the fence. It shall be the responsibility of the party installing the fence to ensure that it is constructed on their property.
(Ord. No. 2512-16, 11-7-16)
- (2) No fence shall be constructed or permitted on any public property, right-of-way or easement without the express authorization from the public agency having jurisdiction over the property or right-of-way.

(c) Fence design.

- (1) Fences shall be constructed so the finished side of the fence is facing towards the neighboring properties, exposing the structural side to the party requesting the fence. Alternating board fences which have the structural elements equally visible on both sides shall be considered as complying with this section.
- (2) *Permitted materials.* Fences must be constructed of materials designed for permanent outdoor fencing, including, but not limited to, wood, metal, bricks, masonry, and rigid plastic or vinyl. Wood fences must be constructed of naturally decay resistant wood such as cedar or redwood, or wood treated by the manufacturer to be decay resistant.
- (3) *Prohibited materials.* Fences must not be constructed from razor wire, wood not manufactured for exterior use, or materials originally intended for other purposes. Above ground electric fence is not permitted. Barbed wire is permitted only on top of fences in nonresidential districts, a minimum of six feet above the natural grade. Chain link or metal wire fencing finer than 11-gauge in diameter is prohibited.
- (4) *Exceptions.* The following fences are exempt from the design requirements:
 - a. Snow fences when used by institutional and public land uses exclusively for control of snow between November 1 and April 15.
 - b. Chicken wire fencing when used to enclose a garden.
 - c. Fences used to secure a construction site.
 - d. Fences used to protect vegetation during construction.
 - e. Fences used to control erosion.

- f. Fences used to provide screening of a patio or placed in landscaping for decorative purposes subject to the following conditions:
 - i. The fence shall be located in the side or rear yard.
 - ii. The fence shall be located at least three feet from the property line.
- g. Chain link and metal wire fences utilizing wood for the support structure shall install the chain link and metal wire on the fence owner's side of support structure.

(Ord. No. 2512-16, 11-7-16)

(d) Height. The height shall be measured from the side of the fence with the lower ground level to the top of the fence or wall section. When there is a grade change between posts, then the height of the fence shall be the average of the height measurements taken where the fence panel meets each post, but in no case shall the height of any one point exceed six inches above the maximum allowed by this section. Fence posts may exceed eight inches above the maximum allowed by this section.

- (1) A fence or wall shall not exceed six feet in height if it is located in any side or rear yard.
- (2) A fence, wall or hedge shall not exceed four feet in height if located in a front yard.

(Ord. No. 2449-13, 11-15-2013; Ord. No. 2512-16, 11-7-16)

(e) Exceptions.

- (1) A fence or wall may be up to eight feet in height if placed in any side or rear yard which abuts Interstate 394, State Highway 100, State Highway 7, State Highway 169, or their adjacent frontage road.
- (2) A fence or wall may be up to eight feet in height if placed in any side or rear yard in an R district which abuts property in the C, O, BP or I districts, or abuts a railroad right-of-way, school, church, or other public building.
- (3) A fence or wall may be up to eight feet in height if placed in any side or rear yard when it is required for screening.
- (4) A fence or wall in one front yard of any through lot may be at the height permitted in a rear yard if it complies with all of the provisions of section 36-76, is used as a rear yard, and the fenced yard used as the rear yard does not adjoin a yard used as a front yard.
- (5) Barbed wire may be used by certain industrial and public service users for health and safety purposes. However, the barbed wire cannot be used at a height lower than six feet six inches, and the overall height of the fence including the barbed wire cannot exceed eight feet.

(Ord. No. 2325-07, 5-7-07; Ord. No. 2512-16, 11-7-16)

(f) Construction and maintenance.

- (1) Both sides of the fence shall be maintained in a condition of good repair.
- (2) Any fence that is potentially dangerous to the public safety or health by reason of construction or sharp projections or protrusions shall be removed or repaired.

(Code 1976, § 14:4-4; Ord. No. 2167-00, 5-15-2000; Ord. No. 2325-07, 5-7-2007; Ord. No. 2512-16, 11-7-16; Ord. No. 2613-21, 5-17-2021)

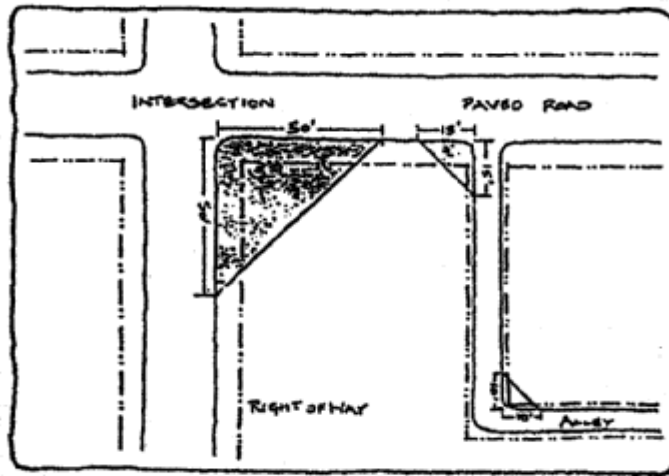
Sec. 36-75. No sewer and water.

- (a) All developments and structures intended for human use or occupancy shall be connected to the public water supply and sanitary sewer systems. If a development is proposed for a site which does not have either a public water supply or sanitary sewer system available adjacent to the property proposed to be developed, no building permit shall be issued for such development until adequate provisions have been made by the person proposing the development to provide public water supply and sanitary sewer service to the property. The city shall determine what constitutes adequate water and sewer service. The city may also require that a surety in a form approved by the city manager be provided to the city in an amount equal to 125 percent of the estimated cost of extending public water and sanitary sewer facilities to the subject property.
- (b) No certificate of occupancy shall be issued until the new structure or development is connected to the public water supply and sanitary sewer system.

(Code 1976, § 14:4-5)

Sec. 36-76. Traffic visibility.

- (a) Walls, fences, structures, trees, shrubs, vegetation or other obstructions shall be permitted in any yard as regulated in this article except when it poses a danger to traffic by obscuring the view from any street, roadway or alley.
- (b) Visibility from any street or roadway shall be unobstructed above the height of 2 1/2 feet and below five feet within the triangle described as beginning from a point at the intersection of the extension of the existing curblines of the two streets, and extending a distance of 50 feet along the edge of each street. This defines two sides of the triangle. The third side is a line connecting the end points of the two sides described in this subsection.
- (c) Visibility from the intersection of any street or roadway and an alley shall be unobstructed above the height of 2 1/2 feet and below five feet within the triangle described as beginning from a point at the intersection of the extension of the existing curblines or pavement edges or, if unpaved, the edge of the traveled surface of the street and alley, and extending a distance of 15 feet along the edge of each street. This defines two sides of the triangle. The third side is a line connecting the end points of the sides described in subsection (b) of this section.
- (d) Visibility from the intersection of any two alleys shall be unobstructed above the height of 2 1/2 feet and below five feet within the triangle described as beginning from a point at the intersection of the extension of the existing curblines or pavement edges of the two alleys, and extending a distance of ten feet along the edge of each alley. This defines two sides of the triangle. The third side is a line connecting the end points of the two sides described in subsection (b) of this section.



(Code 1976, § 14:4-6)

Sec. 36-77. Pedestrian access.

(a) **Purpose and effect.** A goal of the comprehensive plan is to encourage transportation facilities which adequately consider pedestrian, bicycle and other nonmotorized transportation needs. In order to implement this goal, pedestrian links need to be incorporated into development.

(b) **Required linkage to trails.** All new residential developments having more than six dwelling units and all new nonresidential developments shall have pedestrian and bicycle access to public sidewalks or trails which are existing or identified as proposed by the comprehensive plan.

(Code 1976, § 14:4-7)

Sec. 36-78. Height limitations.

- (a) Height limitations set forth elsewhere in this ordinance shall be increased by 50 percent when applied to the following structures:
 - (1) Art objects in non-residential districts and accessory to permitted principal non-residential uses (churches, schools, parks, etc.) in residential districts.
(Ord. No. 2255-03, 11-3-03)
 - (2) Belfries.
 - (3) Chimneys.
 - (4) Church spires.
 - (5) Cooling towers.
 - (6) Cupolas and domes which do not add additional floor area.
 - (7) Elevator penthouses.
 - (8) Fire and hose towers.
 - (9) Flagpoles.
 - (10) Monuments.
 - (11) Observation towers.
 - (12) Smokestacks.
- (b) Parapet walls extending not more than three feet above the limiting height of the building.
- (c) Water towers are exempt from height limitations.

- (d) Building integrated solar energy system extending not more than three feet above the limiting height of the building.

(Code 1976, § 14:4-8; Ord. No. 2255-03, 11-3-03; Ord. No. 2367, 1-23-09; Ord. No. 2640-22, 1-18-22)

Sec. 36-79. Grading; filling and land reclamation; excavation and mining.

(a) Filling and land reclamation. Land reclamation involving the placement of over 400 cubic yards of fill shall be permitted only by conditional use permit in all districts. The permit application shall include a site plan which shows the finished grade of the reclaimed land, a soil analysis of the type of fill material to be used, the proposed use of the land after fill is placed, the effect of the proposed reclamation upon the community and the adjacent land, the type of equipment to be used, the period of time the reclamation operation will be conducted, plans for implementation of measures to guarantee the safety of the site and adjacent and other animal control, fire control, general maintenance of the site and adjacent area, provision for control of material hauled to or from the site, routes of trucks moving to and from the site to deposit fill material to the site, and controls to be employed to limit the effect of wind or other elements on the fill material. The conditional use permit shall impose conditions upon the owner of the land to be reclaimed and the person doing the land reclamation work which will ensure that the type of fill used is appropriate for the proposed land use, and will prevent damage to the community and adjacent land owners during the course of reclamation. Those conditions may impose restrictions in all areas affecting the reclamation and the city may require a surety in a form approved by the city manager to ensure the performance of the conditions imposed and the completion of the work in the manner described in the plan and conditional use permit.

(b) Excavation and mining. Mining or excavation of a material exceeding 400 cubic yards of sand, gravel, or other material from the land shall be permitted only by conditional use permit. The permit application shall include a site plan which shows the finished grade of the land after the mining has been completed, the effect of the proposed mining upon the community and the adjacent land, the type of fill to be extracted from the land, the type of equipment to be used, the period of time the mining operation will be conducted, plans for implementation of measures to guarantee safety of the site and the mining operation, plans for rodent and other animal control, fire control, general maintenance of the site and adjacent area, provisions for control of material hauled to or from the site, and controls to be employed to limit the effect of wind or other elements on the site and the material extracted from the site.

- (1) The permit application shall include a plan which shows the routes of trucks moving to and from the site to remove material from the site, and other pertinent information necessary to the decision whether to approve the conditional use permit. No permit shall be granted for a period longer than 12 months.
- (2) The conditional use permit shall impose conditions upon the owner of the land to be mined and the person performing the mining operation which will prevent damage to the community and adjacent landowners during the course of the mining operation. Those conditions may impose restrictions in all areas affecting the mining operation and the city may require a surety in a form approved by the city manager to ensure the conditions imposed and the completion of the work will be performed in the manner described in the plan and conditional use permit.

(c) Permit not required. A conditional use permit for filling, land reclamation, mining or excavation is not required when the activity has been reviewed and approved in conjunction with construction or activity approved under a building permit, conditional use permit or planned unit development. (Ord. No. 2602-21, 1-4-21)

(Code 1976, § 14:4-9; Ord. No. 2602-21, 1-4-21)

Sec. 36-80. Erosion Control - Repealed

(Ord. No. 2265-04, 3-15-2004)

Cross reference(s)--Environment and public health, ch. 12, art. V.

Sec. 36-81. Restrictions for tree removal; standards for replacement. – Repealed

(Ord. No. 2325-07, 5-7-2007)

Sec. 36-82. Temporary uses.

(a) Purpose and effect. The purpose of this section is to provide conditions under which temporary uses may be allowed in order to ensure a minimum negative impact to neighborhoods and neighboring land uses.

(b) Authorized temporary uses. A structure or land in any use district may be used for one or more of the following temporary uses if the use complies with the conditions stated in this chapter:

(1) *Construction structures.*

- a. No construction structure, except leasing offices, shall be permitted for a period of time exceeding that necessary for construction of the project.
- b. No construction structure shall be located within the drip line of any trees which are designated to be saved under section 36-81.
- c. Construction structures may be located within required yards, but not within 15 feet of any public right-of-way or where prohibited under section 36-76.
- d. All construction structures must be removed before a final occupancy permit is issued.

(Ord. No. 2325-07, 05-07-07)

(2) *On-site equipment and material storage.*

- a. Construction materials shall not be placed on a construction site unless a valid building permit has been issued for that construction.
- b. Construction materials shall not be permitted on the site after the time necessary for construction has expired.
- c. Construction materials may not be located within the drip line of any trees which are to be saved under the approved tree removal plan.
- d. Construction materials may be located within required yards, but not within 15 feet of any public right-of-way or where prohibited under section 36-76.
- e. Any equipment or construction materials stored on the site for a period exceeding 120 days shall be screened from view from any properties within an R district.

(3) *Temporary structures.*

- a. Temporary structures shall not be permitted for more than 14 days per calendar year, with the exception of temporary structures allowed under “agricultural commodities.”
- b. No significant trees shall be removed for the placement of a temporary structure.
- c. Temporary structures may be located within required yards, but not within 15 feet of any public right-of-way or where prohibited under section 36-76.

(Ord. No. 2275-04, 8-3-04; Ord. No. 2325-07, 05-7-2007; Ord. No. 2358-08, 8-14-08)

(4) *Carnivals and festivals.*

- a. Carnivals and festivals shall not be permitted for more than 14 days in any calendar year except in public parks or closed right-of-way as approved by the city or as specified by PUD approval. The city council may approve events lasting more than 14 days at any other location with the following conditions:
 1. Approval of a site plan showing compliance with city code;
 2. Approval of a public safety plan, including traffic control, fire protection and security of the site and area;
 3. Approval of a clean up and restoration plan;
 4. Other conditions to address the public health, safety, welfare and community impacts from the use, including any sound and vibration impacts to surrounding properties;
 5. A financial guarantee, in an amount determined by the Zoning Administrator or city council, may be required to ensure compliance with and/or completion of the approved plans;
 6. Payment of all required application fees.

(Ord. No. 2402-11, 8-12-11)

- b. Carnivals and festivals shall be permitted within the required front yard, side yard, and rear yard; except where prohibited under section 36-76. Carnivals and festivals shall not be allowed within the public right-of-way unless such right-of-way will be closed for the event as approved by the city. (Ord. No. 2402-11, 8-12-11)
- c. All signage must meet the temporary signage provisions found in Section 36-362(h)(3); a sign plan for carnivals and festivals lasting longer than 14 days may vary from the temporary signage provisions if approved by the city council. Exceptions to the temporary sign ordinance shall be limited to allowing:
 1. Temporary signs to be displayed for the duration of the event.
 2. Up to twice the temporary sign area on the site than otherwise allowed. More than twice the temporary sign area may be approved for sites larger than 200,000 square feet.
 3. Private directional signage provided the signs are unlit, for directional purposes only, are 2 square feet per sign face or less, and are located to direct traffic to and from the location and the closest highways and away from residential and other sensitive land use areas.

(Ord. No. 2250-03, 9-2-03; Ord. No. 2325-07, 5-7-07; Ord. No. 2402-11, 8-12-11)

- (5) *Temporary outdoor sales.*
- a. Temporary sales, including licensed food service, shall only be permitted within a C, O, M-X, I or PUD district or in public parks or closed right-of-way as approved by the city.
(Ord. No. 2462-15, 2-2-15)
 - b. Temporary outdoor sales which do not exceed 100 square feet shall be permitted. However, no merchandise shall be stored outside overnight.
 - c. Temporary sales which exceed 100 square feet shall be permitted for a period not to exceed four consecutive days or a total of 14 days in a calendar year except in public parks or closed right-of-way as approved by the city or as specified by PUD approval. (Ord. No. 2358-08, 8-14-08)
 - d. Temporary sales shall only be allowed if associated with a permitted retail business operating within a building on the site in which the same or similar merchandise is offered for sale except in public parks or closed right-of-way as approved by the city or as specified by PUD approval.
 - e. Temporary sales shall be permitted in the required front yard, side yard, and rear yard unless prohibited under section 36-76; however, temporary outdoor sales shall not be allowed in any required landscaped area or within the public right-of-way unless such right-of-way will be closed for the event as approved by the city or as specified by PUD approval. (Ord. No. 2325-07, 5-7-07)
 - f. All signage must meet the temporary signage provisions found in Section 36-362(h)(3). (Ord. No. 2250-03, 9-2-03)
- (6) *Agricultural commodities--Not more than 90 days.*
- a. Christmas tree sales or the sale of other agricultural commodities may be located within required yards, but not within 15 feet of any public right-of-way or where prohibited under section 36-76.
 - b. Agricultural commodities shall be permitted on a parcel for not more than 90 days within any calendar year.
(Ord. No. 2325-07, 5-7-07, Ord. No. 2358-08, 8-14-08)
 - c. Tents, stands and other similar temporary structures may be utilized, provided they are clearly identified on the plan reviewed and approved by the Zoning Administrator. The use shall not impair parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site.
(Ord. No. 2358-08, 8-14-08)
- (7) *Same--Up to six months.* The sale of agricultural commodities, including seasonal farmers' markets, greenhouses, and gardening supplies, which are offered for sale directly from the grower/producer, shall be allowed as a temporary use provided the following standards are satisfied:
- a. A site plan must be submitted to the city.

- b. The temporary use shall be located in the C-1 district, O district, M-X district, PUD district, in a public park or closed right-of-way as approved by the city. (Ord. No. 2462-15, 2-2-15, Ord. No. 2598-20, 11-16-20; Ord. 2602-21, 1-4-21)
- c. The owner of any private property on which the temporary use is proposed to be located shall submit a letter in support of the use to the city.
- d. If the temporary use is located on a surface parking lot or area, such use shall not encumber more than ten percent of the total amount of available parking spaces.
- e. Products shall be limited to produce, vegetables, flowers, plants and related items.
- f. Sales activities may be conducted within a required yard provided the area is paved and the activity does not interfere with parking, traffic circulation or emergency access. Temporary sales on unpaved landscaped areas are prohibited except in public parks as approved by the city or as specified by PUD approval.
- g. Tents, stands and other similar temporary structures may be utilized, provided they are clearly identified on the submitted plan and provided it is determined that they will not impair parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site.
- h. The submitted plan shall clearly demonstrate that adequate off-street parking for the proposed temporary use can and will be provided for the duration of the temporary use. Determination of compliance with this requirement shall include the consideration of the nature of the temporary use and applicable parking requirements set forth in section 36-361 or the approved PUD. Consideration shall be given to the parking needs and requirements of the principal uses located on the same property. If unforeseen circulation or congestion problems occur on the site, or causes traffic to back up on public streets, the city may order the use to relocate on the same property or to be removed.
- i. Signage related to the temporary use shall be in compliance with the applicable standards set forth in the approved PUD, or section 36-362 and the following standards:
 - 1. Freestanding signs shall not exceed 16 square feet.
 - 2. All other signage shall be placed on a tent or canopy.
 - 3. No sign face shall exceed 100 square feet.Special signage for purposes of traffic direction and control may be authorized by the city.
- j. The maximum time for sales activities shall be six months per calendar year per property.
- k. All stands, equipment, signs, and other structures shall be maintained in good repair.
- l. All stands, equipment, signs and other structures shall be removed on the last day of the temporary use.

- (8) *Pollution abatement structures and equipment.*
- a. Pollution abatement structures shall be permitted for a period not to exceed 60 months. If the abatement is not completed within 60 months, the period may be extended provided that a statement is provided which shows the progress of abatement and an estimate of the length of time needed to complete the project.
 - b. Equipment and structures shall not displace required off-street parking.
 - c. Equipment and structures shall not be located within any required yards, except where it is demonstrated that no other areas exist on a designated site.
 - d. Structures shall meet all of the architectural requirements of section 36-366.
 - e. Any landscape materials which are displaced as a result of the structure or equipment shall be replaced when the structure is removed.
 - f. A surety, in a form approved by the city manager, shall be filed before the installation of any building to ensure its removal after pollution abatement is completed and to ensure the replacement of displaced landscape materials.
 - g. All equipment and structures shall be removed and landscape materials replaced within six months after the completion of the pollution abatement. Pollution abatement shall be considered to be complete when notice has been received from the state pollution control agency stating the abatement has been completed.
- (9) *Garage sales.* Garage sales shall be permitted in all residentially zoned and/or used properties subject to the following conditions.
- a. Activities relating to the sales, including any outdoor display/storage shall be limited to no more than two sales events in each calendar year, each for a period not to exceed 72 consecutive hours.
 - b. Garage sale signs are regulated as follows:
 1. On single-family and two-family residential properties are limited to two square feet in area per street frontage.
 2. Garage sale signs on other residentially zoned and/or used properties shall be regulated by the temporary sign area allowed under table 36-362A for the zoning and size of the property in question except that in no case may a sign exceed 25 square feet per street frontage.
 3. All garage sale signs must comply with section 36-362(e).
 4. Garage sale signs are exempt from sign permit requirements provided such signs are posted no more than two days prior to the sale and are removed immediately after the end of the sale.
- (10) *Mobile use.* Mobile uses are permitted with the following conditions:
- a. A zoning permit is required to operate a mobile use vehicle. A separate permit shall be required for each location the mobile use operates, and permits shall be valid for one calendar year. The applications shall include:
 1. A completed application form.
 2. A site plan showing where on the property the vehicle shall be located.
 3. The dates the vehicle shall be on the property.
 4. A copy of a letter from the property owner authorizing the vehicle to locate on the property.

5. A copy of applicable licenses and permits to operate and provide the service.
6. Required fee.
- b. Only Mobile Use-Food and Mobile Use-Medical are permitted.
- c. The vehicle is not permitted on property that is zoned residential and used as a single or two-family residential dwelling. (Ord. No. 2563-19, 7-15-19)
- d. The vehicle shall have all permits and licenses required by the State and Hennepin County to operate. A current copy of the permits and licenses shall be kept at the vehicle and immediately made available upon request. The operator shall comply in all respects with all requirements of state and county law.
- e. A building permit is required for a trailer if the customer enters the trailer during the conduct of the business.
- f. The vehicle may be parked in a public right-of-way if the right-of-way is closed as authorized by the city.
- g. The vehicle operator shall have written permission from the property owner to operate on their property. The written permission shall be kept with the vehicle, and made immediately available to the city upon request.
- h. The vehicle operator shall comply with the following site standards:
 1. The vehicle shall be parked on a paved surface, unless it is located on a public park as approved by the city.
 2. The vehicle shall be located at least 30 feet away from an entrance to a public road.
 3. The vehicle shall not disrupt traffic and parking.
 4. There shall be at least six feet of safe pedestrian passage around the vehicle.
- i. Hours of operation shall be limited to the hours between 7:00 a.m. and 10 pm.
- j. Lighting shall be limited to:
 1. Vehicular lighting that is required by law.
 2. Lights necessary to illuminate the inside of an enclosed vehicle, service deck of a cart, and the point of sale area of the vehicle. The lighting shall not extend above the vehicle, shall be downcast, and shielded in such a way to illuminate the vehicle, and a point of sale area only. The lighting shall not directly illuminate an area more than 10 feet away from the vehicle.
- k. Noise generated by the vehicle and the use shall not become a nuisance. The operation of the vehicle shall adhere to the following:
 1. No vehicle shall use or maintain any outside sound amplifying equipment, televisions or similar visual entertainment devices, or noisemakers, such as bells, horns, or whistles.
 2. Power generators shall not exceed 70 decibels measured 10 feet away from the source.

- I. Signage shall be limited to the following:
 1. Text and images permanently applied to the vehicle as a decal or painted image and text.
 2. Signs that are attached to the vehicle. The signs shall not extend above the roof of the vehicle, or extend more than five inches beyond any side of the vehicle. These signs can be unlit or internally lit.
 3. Text and images permanently applied to awnings that are attached to the vehicle, do not extend above the height of the roof of the vehicle, and are at least six feet from the ground to the bottom of the awning.
 4. Text and images permanently applied to umbrellas that are attached to a food cart. The umbrella shall be less than nine feet in height, and maintain a clearance of at least six feet from the ground to the bottom of the umbrella.
 5. One Pedestrian sign as defined in Section 36-362. The Pedestrian sign must be located within five feet of the vehicle.
- m. Trash, litter, recycling and refuse shall be handled in the following manner:
 1. All waste liquids, garbage, litter and refuse shall be kept in leak proof, nonabsorbent containers which shall be kept covered with tight-fitting lids and properly disposed of at the establishment the vehicle operates from. Public trash cans shall not be used to dispose of waste generated by the operation. Excepted from this is the occasional use by customers.
 2. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, or any other place except the licensed food establishment.
 3. The operator shall provide a garbage receptacle with a tight fitting lid. The receptacle shall be easily accessible for customer use, and located within five feet of the vehicle.
 4. The operator shall be responsible for all litter and garbage left by customers.
- n. Overnight parking of the vehicle is not permitted, except that a vehicle under a long term contract to operate on a premises may be kept overnight on the same premises with the following conditions:
 1. The vehicle is open for business at least six hours and five days per week for every week it is kept on site. The business hours must be posted on the outside of the vehicle at all times.
 2. There is a minimum of six feet of pedestrian walkway between the vehicle and the edge of the sidewalk or marked pedestrian walkway.
 3. Vehicles located on public property are exempt from these requirements pertaining to overnight parking.
- o. Mobile Use-Food shall also comply with the following conditions:
 1. Only food and non-alcoholic beverages shall be sold.

2. The vehicle shall not have a drive-thru.
 3. Vehicles stored overnight on private property shall be kept within 10 feet of the principal building wall, near the customer entrance of the building.
 4. All transactions, services and preparation must occur inside the vehicle.
- p. Mobile Use-Medical shall also comply with the following conditions:
- 1) The caregivers shall have all permits and licenses required by the State and County to operate. A current copy of the permits and licenses shall be kept at the vehicle and immediately made available upon request. The operator shall comply in all respects with all requirements of state and county law.
 - 2) The vehicle shall be used to provide a non-surgical medical service only.
 - 3) Hazardous waste shall be contained and disposed of in a manner required by law.
 - 4) Overnight boarding of pets is not permitted.
 - 5) The sale of animals is not permitted.
 - 6) Animals shall be kept inside the vehicle when receiving treatment and when under the supervision of the caregiver.

(Ord. No. 2426-12; 12-14-2012; Ord. No. 2443-13, 7-13-2013)

(Code 1976, §§ 14:4-12.0-14:4-12.2; Ord. No. 2194-01, 3-19-2001; Ord. No. 2228-02, § 2, 7-15-2002; Ord. No. 2275-04, 8-3-2004; Ord. No. 2325-07, 5-7-2007; Ord. No. 2358-08, 8-14-2008; Ord. No. 2402-11, 8-12-2011; Ord. No. 2426-12; 12-14-2012; Ord. No. 2443-13, 7-13-2013; Ord. No. 2563-19, 7-15-19; Ord. No. 2598-20, 11-16-20; Ord. No. 2602-21, 1-4-21)

Sec. 36-83 Home occupations.

(a) **Purpose and effect.** The purpose of this section is to provide conditions under which a home occupation may be conducted that ensures a minimum negative impact to neighborhoods and neighboring land uses.

(b) **Authorized home occupations.** A dwelling in any use district that permits dwellings, may conduct a home occupation as an accessory use if it complies with the following conditions:

- (1) A registration of land use is required for any home occupation established after July 12, 2019, that has customers, students, or an employee coming to the site.
- (2) The home occupation and structure housing the home occupation meets all applicable fire and building codes, as well as any other city, county, state, or federal regulations.
- (3) The home occupation is clearly incidental and subordinate to the residential use of the property and does not change the character of the property.
- (4) The floor area of the home occupation cannot exceed 25% of the total floor area of the principal dwelling unit. If a home occupation is conducted by the occupant of an accessory dwelling unit, then it is limited to 25% of the floor area of the accessory dwelling unit.
- (5) Operation of the home occupation is not apparent from the public right-of-way.
- (6) All material or equipment is stored within an enclosed structure.
- (7) The home occupation does not produce nuisance noise, odors, smoke, heat, glare, vibration, or electrical interference beyond the residential lot occupied by the home occupation.
- (8) One person who does not legally reside at the property may be employed at a home occupation. If there is a home occupation being conducted in both the primary dwelling and accessory dwelling unit, then only one of the two may have an employee that does not legally reside on the property.
- (9) Persons do not come to the location of the home occupation to be dispatched to other locations, or to pick-up or drop-off equipment, materials, or supplies.
- (10) Sale of products related to the home occupation is allowed with the following conditions:
 - a. Products are shipped to and from the premises; or
 - b. Product sales occur off-site at a permissible location; or
 - c. Customers visit the premises by appointment only; or
 - d. Products are sold on the premises at garage sales as regulated by this chapter.
- (11) No more than one non-illuminated wall sign up to two square feet in area is used to identify the home occupation.
- (12) The home occupation does not include any of the following uses: auto body/painting, motor vehicle sales, motor vehicle service and repair, small engine repair, massage, medical/dental office, animal handling, restaurant, firearm sales, currency exchange, payday loan agency, sexually oriented business, or high-impact sexually oriented business.
- (13) No portion of the home occupation is conducted within any attached or detached accessory building, except the occupants of an accessory dwelling unit may conduct a home occupation in the accessory dwelling unit.

(Ord. No. 2624-21, 8-16-2021)

Secs. 36-84 – 36-110. Reserved.