

## **CHAPTER 6**

### **COMMERCIAL DISTRICTS**

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#### **SECTION 600. PURPOSE**

##### **A. General Purposes**

The Commercial Districts are designed to:

1. Achieve the commercial objectives of the Comprehensive Plan.
2. Meet the needs for commercial services and goods.
3. Promote the development of efficient commercial facilities and encourage a compatible relationship between commercial facilities and other land uses and thoroughfares by:
  - a. Differentiating the types and purposes of commercial activities;
  - b. Establishing bulk and area controls;
  - c. Requiring off-street parking and loading facilities;
  - d. Controlling the number, area, location, and types of signs; and
  - e. Protecting the character of commercial districts and their unique suitability for commercial uses.

**B. Purpose of the C-1 Local Shopping District**

The C-1 District is designed to provide for local shopping and includes a wide range of convenience stores and personal service establishments which cater to frequently recurring needs. The District regulations are designed to promote convenient shopping and the stability of retail development by encouraging continuous retail frontage and by excluding local service establishments which tend to break such continuity and to limit uses or characteristics of operation which encourage traffic from outside the immediate neighborhood.

**C. Purpose of the C-2 Community Shopping District**

The C-2 District is designed to accommodate regional and community shopping centers to provide for a wide range of essential local commercial services.

**D. Purpose of the C-3 Central Commercial District**

The C-3 District is designed primarily to provide:

1. Concentrated central cores of retailing and personal services of all kinds, satisfying the personal and household needs of the residents of the entire metropolitan area and outlying trade areas;
2. Areas accommodating central administrative, businesses, financial, general, and professional offices and related services, satisfying the needs of the residents, businesses, industries, and other enterprises of the metropolitan area and the trade area; and
3. Convenient shopping and the stability of retail development by encouraging continuous retail frontage in a central business district environment.

**E. Purpose of the C- 4 Central Service District**

The C-4 District is designed primarily to provide for certain high intensity commercial and light industrial activities which need a central location, but which either do not require a location in the core of a central business district, or are not compatible with the principal uses of the core.

F. Purpose of the C-5 Highway Commercial District

The C-5 District is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve trucks and truckers, as well as persons traveling by automobile, and to provide certain amusement facilities serving the metropolitan area. It is ordinarily located along US numbered highways, and particularly along interstate highways.

**SECTION 601. PRINCIPAL USES**

The principal uses permitted in the Commercial Districts are designated by Use Units. The Use Units are groupings of individual uses and are fully described, including their respective off-street parking, loading and screening requirements and other use conditions in Chapter 15. The Use Units permitted in Commercial Districts are set forth below. Where an "X" appears in the column of a District, the use set off opposite the "X" is permitted as a Use by Right in that District. Where an "E" appears the use is permitted subject to the granting of a Special Exception by the Board of Adjustment.

TABLE 6 - 1

USE UNITS PERMITTED IN COMMERCIAL DISTRICTS<sup>1</sup>

Use Units		Districts				
No.	Name	C-1	C-2	C-3	C-4	C-5
1.	Area-Wide Uses By Right	X	X	X	X	X
2.	Area-Wide Special Exception Uses	E	E	E <sup>2</sup>	E <sup>2</sup>	E <sup>2</sup>
4.	Public Protection and Utility Facilities	E <sup>3</sup>				
10.	Off-Street Parking	X	X	X	X	X
11.	Offices, Studios and Support Services	X	X	X	X	X
12.	Eating Establishments Other than Drive-Ins		X	X	X	X
13.	Adult Entertainment Establishments					X <sup>4</sup>
14.	Convenience Goods and Services	X	X	X	X	X
15.	Shopping Goods and Services	X	X	X	X	X
16.	Other Trades and Services				X	X
17.	Mini-Storage		X		X	X
18.	Automotive and Allied Activities				X	X
19.	Drive-In Restaurants				X	X
20.	Hotel, Motel and Recreational Facilities			X	X	X
21.	Commercial Recreation, Intensive				E	E
22.	Outdoor Advertising Signs				X <sup>5</sup>	X <sup>5</sup>
23.	Scientific Research and Development				E	X
24.	Warehousing and Wholesaling				X	X
26.	Restricted Industry and Manufacturing				E	E
27.	Light Manufacturing and Industry				E	E

<sup>1</sup>X = Use by Right.

E = Special Exception. (See Section 603).

<sup>2</sup>Bed and Breakfast Inns are permitted by Right in accordance with Section 1502.

<sup>3</sup>Antennas and Antenna Supporting Structures are not allowed by Special Exception in any C District.

<sup>4</sup>For information about Adult Entertainment Establishments see Section 604.

<sup>5</sup>The location of Outdoor Advertising Signs is restricted as stated in Section 1522.

**SECTION 602. ACCESSORY USES**

**A. Accessory Uses Permitted**

Accessory uses customarily incidental to a principal use permitted in a Commercial District are permitted in such District.

**B. Accessory Use Conditions**

**1. Accessory buildings:**

- a. Detached accessory buildings must meet the minimum building setback lines of the applicable District; or
- b. An accessory building constructed as an integral part of the principal building must be made structurally a part of that building and must comply with the requirements applicable to the principal building.

**2. Signs in the Commercial District, whether accessory or principal uses, are subject to the use conditions established in Chapter 11, Signs.**

**3. Accessory Antennas and Antenna Supporting Structures**

- a. Accessory Antennas and Antenna Supporting Structures which are accessory to a commercial use are permitted to be mounted on a commercial building or a customary accessory building provided:
  - 1) That it does not exceed 65 feet in height measured from the average ground elevation at the commercial building to the highest horizontal point of the Accessory Antenna and Antenna Supporting Structure;
  - 2) The surface area of all such mounted Antennas shall not exceed ten (10) square feet. Only one (1) side which has the largest surface area is to be calculated; and
  - 3) These provisions do not apply the principal use Antennas or to Antennas which are accessory to uses requiring Board of Adjustment approval.

- b. Structures other than a commercial building or customary accessory building which are used to support Accessory Antennas including guy lines must:
  - 1) Be located in the rear yard only;
  - 2) Be limited to one such structure;
  - 3) Not exceed 65 feet in height measured from the average ground elevation at the commercial building to the highest point of the Antenna Accessory and Antenna Supporting Structure;
  - 4) Must not encroach upon the land or airspace of any abutting property; and
  - 5) Must not exceed 24 inches in width above 25 feet in height, exclusive of guy lines.

### **SECTION 603. REQUIREMENTS FOR SPECIAL EXCEPTION USE**

The Special Exception uses permitted in Commercial Districts, as designated in Table 6 -1, are subject to the minimum requirements set out below and such additional safeguards and conditions as may be imposed by the Board of Adjustment.

#### **A. Bulk and Area Requirements for Special Exceptions**

1. The Use Unit requirements, if more restrictive, shall prevail; or
2. All Special Exception uses must comply with the bulk and area requirements of the Zoning District in which located.

#### **B. Uses included within Use Unit 16, Other Trades and Services, and Use Unit 21, Commercial Recreation, Intensive, where permitted by Special Exception, are subject to the following requirements:**

1. The permitted uses shall not interfere with or detrimentally affect any adjoining or nearby residential properties;
2. Traffic circulation shall be reviewed and approved by the City or County Engineer, including the location of ingress and egress points; and

3. The subject tract of land must have either a minimum of 150 feet of frontage on a designated arterial street or a minimum of 50 feet of frontage on a nonarterial street.

## **SECTION 604. SEXUALLY-ORIENTED BUSINESSES**

### **A. Warning**

Some of the businesses and activities described in this section may be illegal under state and federal law, and persons associated therewith may be subject to criminal prosecution. Nothing in this section is intended to make legal any business or activity now illegal under state or federal law.

### **B. Definitions**

1. As used in this Section, the terms sexual conduct and specified anatomical areas have the following meanings:
  - a. Sexual Conduct includes the following:
    - 1) The fondling or other touching of human genitals, pubic region, buttocks, or female breasts.
    - 2) Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy.
    - 3) Masturbation.
    - 4) Excretory functions whether as part of or in connection with any of the activities set forth in (1) through (3) above.
  - b. Specified Anatomical Areas includes the following:
    - 1) Human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.
    - 2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

2. For the purpose of this Ordinance the establishment of a sexually-oriented business refers to:
  - a. The opening of such business as a new business;
  - b. The relocation of such business;
  - c. The enlargement of such business in either scope or area; or
  - d. The conversion of an existing business location to any of the uses described in Section 604.A.
  
3. For purposes of this Ordinance, sexually-oriented businesses are defined as follows:
  - a. Adult Amusement or Entertainment: Amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to Sexual Conduct or Specified Anatomical Areas, as defined herein, including but not limited to topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.
  
  - b. Adult Bookstore: An establishment wherein 10% or more of its display area consists of books, films, videos, magazines, periodicals, games, novelties or other materials which are distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas (subsequently referred to as "sexually-oriented materials"). "Sexually-oriented display area" as used within this Ordinance will be measured as follows:
    - 1) For bookshelves, magazine racks and similar display devices, display area shall be calculated by multiplying the length times the width of such devices. If sexually-oriented materials are mixed with non-sexually oriented materials in or on such devices, the entire device will be considered as consisting of sexually-oriented materials.
  
    - 2) For table tops, counters, display cases and similar display devices, display area shall be calculated by multiplying the length times the width of each surface on which merchandise is displayed. If sexually-oriented materials are mixed with non-sexually oriented materials on such surfaces, the entire surface will be considered as consisting of sexually oriented materials.

- 3) For walls, display area shall be the area of the wall enclosed by the smallest imaginary rectangle which contains each item.
  - 4) The display area of merchandise hanging or suspended from the ceiling shall be calculated by multiplying the item's length or width, whichever is longer, times the item's height.
- c. Adult Mini-Motion Picture Theater: An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.
  - d. Adult Motel: A motel wherein material is presented, as part of the motel services, via closed circuit TV or otherwise, which is distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.
  - e. Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled, still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.
  - f. Adult Motion Picture Theater: An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.
  - g. Model Studio: Any place other than university or college art classes where, for any form of consideration or gratuity, figure models who display Specific Anatomical Areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity.

- h. Sexual Encounter Center: Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to engage in personal contact with or to allow personal contact by employees, devices or equipment or by personnel provided by the establishment which appeals to the prurient interest of the patron to include, but not to be limited to, bath houses, massage parlors, and related or similar activities.

C. Prohibition

- 1. No person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses as defined in Section 604.A, in an area zoned other than a C-5 District.
- 2. In addition, no person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses as defined in Section 604.A within:

- a. 1,000 feet from any other sexually-oriented business

The 1,000 feet to be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted, to the nearest point of the wall of the portion of the building in which another sexually-oriented business is conducted.

- b. 1,000 feet from a church

- 1) Church as used herein shall mean all contiguous property owned or leased by a church upon which is located the principal church building or structure, irrespective of any interior lot lines.
- 2) The 1,000 feet to be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point of the church.
- 3) Provided, however, for a church use located in a building principally used for commercial or office purposes, the 1,000 feet shall be measured to the nearest building wall of the portion of the building used for church purposes.

- c. 1,000 feet from a school of the type which offers a compulsory education curriculum
  - 1) School as used herein shall mean all contiguous property owned or leased by a school upon which is located the principal school building(s) irrespective of any interior lot lines.
  - 2) The 1,000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point of the school.

- d. 1,000 feet from a public park or private park

The 1,000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point on the property of the park.

- e. 1,000 feet from areas zoned residential

The 1,000 feet to be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted, to the nearest point on a Residential Zoning District boundary line not including residentially zoned expressway right-of-ways.

**D. Nonconforming Uses: Sexually-Oriented Businesses**

- 1. Any business lawfully existing as of the effective date of this Ordinance that is in violation hereof shall be deemed a nonconforming use.
- 2. Such a nonconforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason whatsoever or voluntarily discontinued for a period of 30 days or more.
- 3. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.
- 4. In the event that two (2) or more sexually-oriented businesses are within 1,000 feet of one another and otherwise in a permissible zone, the first such sexually-oriented business licensed and continually operating at a particular location shall be the conforming use and the later established business(es) shall be nonconforming.

- E. Nothing in this Ordinance is intended to make legal any business or activity that is expressly declared illegal under the provision of this Ordinance or under any state or federal laws.

### SECTION 605. BULK AND AREA REQUIREMENTS

Every permitted use in a Commercial District shall be subject to the requirements set forth in Table 6 -2 and to such other modifications as set forth herein.

**TABLE 6 - 2**

#### BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS\*

District	Yards (feet), minimum				
	Front Yard	Exterior Side Yard	Rear Yard and Interior Side Yard		
			Abutting property in an AR, RS, RM, RT or O District	Not Abutting property in an AR, RS, RM, RT or O District	Floor Area Ratio, (FAR) (maximum)
C-1	25	20	10	-	0.3
C-2	25	20	10	-	0.4
C-3	-	-	10	-	10.0
C-4	-	-	10	-	6.0
C-5	75	20	10	-	0.5

\*Where a lot in a Commercial District abuts property in an AR, RS, RM, RT or O District, no structure on such lot adjacent to such other District shall exceed the height of 20 feet, unless the portions exceeding such height are set back in the same manner as is provided herein for structures in such other District.

Front yards or any yard abutting a public street shall be measured from the centerline of the abutting street, adding to the distance shown in Table 6-2 one-half (1/2) the distance designated on the Major Street Plan (MSP).