

September 2, 2014

**ALLIANCE CITY COUNCIL**

REGULAR MEETING, TUESDAY, SEPTEMBER 2, 2014

STATE OF NEBRASKA            )  
   )  
 COUNTY OF BOX BUTTE        ) §  
   )  
 CITY OF ALLIANCE             )

The Alliance City Council met in a Regular Meeting, September 2, 2014 at 7:00 p.m. in the Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on August 26, 2014. The notice stated the date, hour and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the office of the City Clerk in City Hall; provided the Council could modify the agenda at the meeting if it determined an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each of the City Council Members. An agenda, kept continuously current, was available for public inspection at the office of the City Clerk during regular business hours from the publication of the notice to the time of the meeting.

Mayor Feldges opened the September 2, 2014 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Feldges, Council Members, Benzel, Lewis, Seiler and Yeager. Also present were City Manager Cox, Assistant City Manager Waggener, City Attorney Olsen and City Clerk Jines.

- Mayor Feldges read the Open Meetings Act Announcement.
- The introduction of new City of Alliance Employees was the first agenda Item. Council welcomed Kate Smith, Library Clerk; and Kris Wallace, Children’s and Youth Librarian.
- The Consent Calendar was the next item to be addressed by Council. Councilman Benzel made a motion, which was seconded by Councilman Lewis to approve the Consent Calendar as follows:

CONSENT CALENDAR – SEPTEMBER 2, 2014

1. Approval: Minutes of the Regular Meeting, August 19, 2014.
2. Approval: Payroll and Employer Taxes for the period August 2, 2014 through August 15, 2014 inclusive: \$174,470.74 and \$12,350.15 respectively.
3. Approval: Claims against the following funds for the period August 14, 2014 through August 28, 2014: General, General Debt Service, Trust and Agency, Street, Electric,

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Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course, Downtown Improvement Districts, R.S.V.P., Keno, and Capital Improvement; \$1,334,195.54.

4. Approval: The issuance of a Cemetery Certificate to Dionne Wilson for the East Half (E1/2) Lot Twelve (12), Section Eight (8), Block Twenty (20), Alliance Cemetery Fourth Addition.
5. Approval: The issuance of the following Contractor Licenses:
 

|                      |   |
|----------------------|---|
| General Contractor   | Kelly Strey dba B & C Steel Corporation |
| Repair & Maintenance | Michael J. Kvamme dba Alliance Builders |
| Roofer               | Paul Harper dba Resistant Roofs         |
6. Acceptance: The Free Trees for Fall Planting mini grant sponsored by the Nebraska Community Forestry Council and ReTree Nebraska and funded by the Nebraska Environmental Trust. The City will be receiving ten shade tree varieties to replace trees within Central Park, which will be planted between September 1<sup>st</sup> and November 15<sup>th</sup>.
7. Clarification: The appointment of Kurt Schmidt to the Economic Development Plan Citizen Advisory Review Board, with a new term expiring December 31, 2016.
8. Approval: Resolution No. 14-102 authorizing the Grime Time Event sponsored by Box Butte General Hospital to be held on Saturday, September 13, 2014. The event primarily is held within the City's park system along the trail with obstacle type challenges for the participants. A map showing the location of the obstacles along with the obstacle descriptions have been included for your review. Obstacle No. 7 is being modified or removed so participants will not be entering the fountain. BBGH has provided a Certificate of Liability Insurance which names the City as an additional insured.
9. Approval: The transfer of \$1,800.00 (\$700.00 from Employee Medical Services and \$1,100.00 from Conferences, Continuing Education) to Account No. 01-31-31-59-915 Capital Outlay Buildings for the finishing of a 9' x 12' room within the Police Annex.

NOTE: City Manager Cox has reviewed these expenditures and to the best of his knowledge confirms that they are within budgeted appropriations to this point in the fiscal year.

Roll call vote with the following results:

Voting Aye: Yeager, Benzel, Feldges, Lewis, Seiler.

Voting Nay: None.

Motion carried.

- Council proclaimed the week of September 21-September 27<sup>th</sup> as ReTree Nebraska Week with the following proclamation:

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PROCLAMATION

WHEREAS, September 21 through September 27, 2014 is ReTree Nebraska week; and

WHEREAS, ReTree Nebraska is a program to celebrate trees and promote the value of healthy trees for a healthy community; and

WHEREAS, ReTree Nebraska assists volunteers and non-profit partners with tree planting in public spaces and areas of civic importance; and

WHEREAS, A goal of ReTree Nebraska is to diversify the community forest by promoting a broader diversity of native and well-adopted non-native tree species within Nebraska; and

WHEREAS, ReTree Nebraska provides educational opportunities for people to learn more about trees and their proper selection, planting and care.

NOW, THEREFORE, the City Council of Alliance, Nebraska, does hereby proclaim the week of September 21 – 27, 2014 as:

RE-TREE NEBRASKA WEEK

in the City of Alliance, Nebraska, and I urge all citizens to support efforts to promote the healthy establishment and ongoing care of newly-planted trees in our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Alliance to be affixed on this 2<sup>nd</sup> day of September in the year of the Lord Two Thousand Fourteen.

The proclamation was presented to Park and Tree Board Members James Joule and Virgil Hatch and Park volunteer Miriam Bowen.

- Council next heard a presentation from the Economic Development Plan Application Review Committee providing an overview of the program and the financial assistance available. Committee Chair John McGhehey described to Council the financial assistance which was available to new or expanding businesses with it mostly being centered on job creation. There are both forgivable loans and low interest non-forgivable loans available depending on the needs of the company and the number of jobs created. A new proposed component of our program is the small business assistance which is not based on job creation but with capital assistance not to exceed \$5,000. Funding for the Economic Development Program is generated by sales tax within the City of Alliance. Previously the Council authorized the use of these funds outside of our City limits when it is deemed to benefit the community as a whole. Mr. McGhehey introduced the other members of the Committee which were in attendance: Scott Moller and Serena Bremer. Rich Robb and Brenda McDonald also serve on the Committee and were unable to attend this evening.

- City Manager Cox gave his City Manager's Report in outline form:

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1. Production Cost Adjustment:

- March: \$0.01000
- April: \$0.00600
- May: \$0.00312
- June: \$0.00317
- July: \$0.00177
- Aug: \$0.00187
- Sept: \$0.00183

2. 10<sup>th</sup> Street Trail Project

- Right of way acquisition
- Requested NDOR study allowing stop light at 10<sup>th</sup> & Flack Avenues.

3. Waterline Study Update (MCShaff updating the proposed scope)

4. Event Route (football games) – One ways; Give handout

5. Laing Lake: Does Council wishes to keep water in or allow to go dry now?

6. Fountain: Shutdown 9/15 to allow time to paint and seal

7. Upcoming Calendar:

- 9/18: City Council Meeting
- 10/10: AOTB (YMCA)

• The first reading of Ordinance No. 2764, which will amend the Alliance Municipal code regarding regulations for peddlers and solicitors was the next agenda item. Council was provided with the following background information:

[The City of Alliance recently issued several Peddlers Licenses to individuals selling alarm systems to local residents by going door to door. The company involved has been conducting sales over the past several years and the City has received complaints regarding the tactics used to sell the systems and possible misrepresentations by the salesmen. As a prerequisite of issuing a permit, the City would like to ensure that Staff has the authority to conduct background checks on the peddlers for the protection of the public by ensuring the applicants are found to be persons of good moral character in business dealings.

The proposed new language to be inserted within the Municipal Code is shown using the redline method in the attached document.]

A motion was made by Councilman Benzel, seconded by Councilman Lewis to approve the first reading of Ordinance No. 2764 which City Clerk Jines read by title and follows in its entirety.

ORDINANCE NO. 2764

AN ORDINANCE PERTAINING TO PEDDLERS AND SOLICITORS AND AMENDING SECTION 18-248; PROVIDING FOR AN EFFECTIVE DATE AND REPEALING EXISTING PROVISIONS OF THE ALLIANCE CODE NOT CONSISTENT WITH THIS ORDINANCE.

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BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1. Section 18-248 of the Code of Ordinances of the City of Alliance, Nebraska is hereby amended to read as follows:

**Sec. 18-248. License required, fees, application.**

No person shall deal as a solicitor or peddler as defined by this division without having procured a license as herein required, and no two or more persons shall deal under the same license as partners, agents, or otherwise. The license fee for a solicitor or peddler shall be as established by the city. The application for license shall be submitted to the city manager's office at least five days prior to the date of any solicitation or sale, and shall state the name of the applicant, permanent address for himself and the name and address of the person, firm or corporation represents, the nature and character of the property to be sold, whether sells and delivers the property directly to the purchaser, or whether solicits or takes orders for it by carrying samples or catalogs, the manner in which intends to make contact with the customers, and how intends to operate within the city.

Upon receipt of such application, the city manager or his designee shall cause the police chief to conduct such investigation of the applicant's moral character to be made as it deems necessary for the protection of the public with whom the applicant may deal. If, as result of such investigation, the applicant is found to be a person who is of good moral character in business dealings, the police chief shall authorize the issuance of a permit, through the City Clerk, who shall, upon payment of the prescribed permit fee, deliver the permit to the applicant. Such permit shall contain the signature of the issuing officer and shall show the name and address of the applicant, the kind of goods permitted to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the permit shall be operative, and the license number and other identifying description of any vehicle used in such peddling. The Clerk shall keep a permanent record of all permits issued.

SECTION 2. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Roll call vote to approve the first reading of Ordinance No. 2764 with the following results:

Voting Aye: Feldges, Benzal, Lewis, Yeager, Seiler.

Voting Nay: None.

Motion carried.

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- The second reading of Ordinance No. 2758, which will approve amending the Alliance Municipal Code relating to communication antennas was the next matter before Council. The following background information was provided to Council:

[The Alliance Planning Commission at their regular meeting June 10, 2014 recommended the proposed changes to the Alliance Municipal Code, Chapter 19, Article 2 regarding communication antennas. Community Development Director Brent Kusek noticed inconsistencies in the Communication Antennas Code between zoning districts. Some districts allow towers as a use by right but are restrained by setback and height limits. Other districts allow them by Conditional Use Permits in which setbacks and height restrictions are established as part of the conditional use. The proposed revised code has been changed to show consistency by requiring a Conditional Use Permit in every zoning district and outlining the steps the developer is required to complete in order to construct a tower or communication antenna. The motion recommended by the Alliance Planning Commission did not change the zoning districts where towers and communications equipment are allowed. There are no provisions for towers and communications equipment in Residential zoning except in Rural Residential, as it is now.

The proposed code also updates certain items that have changed within the City since the existing code was enacted. This includes the removal of technical specifications that would be found in the design of a tower or antenna. The City requires engineered drawings of such structures and over time the existing code could specify technical details which are out-of-date. The code also removes references to the electrical inspector, as the City no longer has such a position with all electrical inspections and plan reviews being completed by the State of Nebraska Electrical Division.

The Alliance City Council had a discussion of the proposed draft at the July 15<sup>th</sup> regular meeting. Staff was asked to research and change certain components of the code based on Council's suggestions and return to Council with clarification and revision. Following the approval of the first reading of the Ordinance, the old language which was stricken out has been removed and the proposed new language is reflected. The two items addressed by Council at our last meeting which were (1) the insurance level requirement [amendment is on page 5] and (2) the type of engineer required to develop a communications antenna [amendment is on page 4] have been incorporated into the ordinance for second reading using the strike-out and redline method.]

A motion was made by Councilman Yeager, seconded by Councilman Seiler to approve the second reading of Ordinance No. 2758 , which was read by title by City Clerk Jines and follows in its entirety.

ORDINANCE NO. 2758

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AN ORDINANCE PERTAINING TO COMMUNICATION ANTENNAS AND AMENDING SECTIONS 109-21 THROUGH 109-35, AND SECTIONS 115-96 THROUGH 115-110; PROVIDING FOR AN EFFECTIVE DATE AND REPEALING EXISTING PROVISIONS OF THE ALLIANCE CODE NOT CONSISTENT WITH THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1. Sections 109-21 through 109-32 and Sections 115-96 through 115-110 of the Code of Ordinances of the City of Alliance, Nebraska are hereby amended to read as follows:

**Sec. 109-21. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*ANSI* means the American National Standards Institute.

*Antenna* means the outdoor portion of the equipment used for receiving or transmitting communications signals to or from space and includes all tower, pole, mast, roof or ground supported apparatus including satellite earth station dish antennas.

*Antenna Contractor* means any person, firm or corporation engaged in the erection, maintenance, repair, of any type of antenna used in communications and doing such work for a fee.

*Antenna Support Structure* is any building or structure other than a tower which can be used for location of telecommunication facilities.

*Applicant* means any person that applies for a Conditional Use Permit to install a tower, telecommunications facilities, or antenna.

*Application* means a process by which the owner of a tract of land within the zoning jurisdiction of the City submits a request to develop, construct, modify, or operate a tower upon said tract of land. The term includes all written documents, verbal statements, and representations, in whatever form or forum, made by an applicant to the City concerning the request.

*Community Development Department* means the department or designee responsible for the administration of the City of Alliance Municipal Building and Zoning Code.

*Engineer* means a person who is licensed as a professional engineer by the State of Nebraska on the basis of education, experience, and examination, as being licensed in a specific discipline or branch of engineering study signifying the field in which the professional engineer has demonstrated competence.

*Height* means the overall vertical distance of the antenna systems uppermost appurtenance above ground level adjacent to the antenna support.

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*Owner* means a person with fee simple title or leasehold to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon the tract of land.

*Satellite earth station antenna* means any conforming earth station antenna two meters or less in diameter and subject to the restrictions in Section 109-24.

*Stealth* means a telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees.

*Telecommunications Facilities* means any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. Telecommunications Facilities does not include:

(a) Any conforming commercial earth station antenna two meters in diameter or less which is located in the City's commercial or industrial zones.

(b) Any earth station antenna one meter or less in diameter, regardless of zoning applicable to the location of the antenna.

*Tower* means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities.

*Tower Owner* means any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Conditional Use Permit.

#### **Sec. 109-22. Area of Jurisdiction.**

The regulations within this article are effective within the corporate limits of the city and within the two mile extra jurisdictional territory adjacent thereto as provided by statute.

#### **Sec. 109-23. Codes supplemental to this article.**

The city's zoning regulations and building codes are hereby adopted as a part of this article as a minimum standard.

#### **Sec. 109-24. Satellite earth station antennas.**

(a) In any A, C-1, C-2, C-3, M-1, M-2, M-3 or their equivalent planned district, such station may be located anywhere on the lot or building thereon, provided the location of the station shall comply with all setback and height restrictions of the district. If such zone abuts a residential or C-0 district, the satellite earth station shall be set back ten feet from the side lot lines and effectively screened by a solid wall, fence, or hedge.

(b) In any Residential or C-0 zoning, or their equivalent planned district, such stations shall be located only behind the front yard building setback line and not be less than five feet from any other lot line. If a usable satellite signal cannot be obtained in the rear or side yard, the

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antenna may be placed on the roof of the main or accessory building. Such a roof mounted satellite antenna shall comply with the height and requirements of the zone in which it is installed.

(c) Not more than one satellite earth station shall be allowed per residential unit on any lot.

(d) Except for commercial or public broadcasting systems, no form of advertising is allowed on the dish or framework other than the manufacturer's identification.

**Sec. 109-25. Location of towers, telecommunications facilities, and antennas.**

(a) Towers, telecommunications facilities, and antennas shall be permitted by Conditional Use Permit in every zoning district except for R-1, R-1a, R-2, R-3, R-4, or R-5 and their equivalent Planned Districts.

(b) No person shall develop, construct, modify, or operate a tower, telecommunication facilities, or antennas upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Conditional Use Permit by the City Council and issuance of a building permit by the City.

(c) All towers, telecommunications facilities, and antennas constructed within the zoning jurisdiction of the City after approval and adoption of this article shall conform to the Building Code and all other construction standards set forth in the Municipal Code, federal and state law, and applicable ANSI standards. Upon completion of a tower, telecommunications facilities, or antennas and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Community Development Department.

**Sec. 109-26. Application to develop a tower, telecommunication facilities, or antenna.**

Prior to commencement of the development or construction of a tower, telecommunication facilities, or antenna, an application must be submitted to the City's Community Development Department for a Conditional Use Permit and shall include the following requirements:

(a) The name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower, telecommunications facilities, or antenna is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower, telecommunications facilities, or antennas. The application shall be executed by all applicants.

(b) The legal description of the tract of land on which the tower will be located.

(c) The names, addresses, and phone numbers of all owners of record of other towers, telecommunications facilities, or antennas, or usable antenna support structures within a one

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quarter mile radius of the location of the proposed tower, telecommunications facilities, or antenna, including those which are publicly and privately owned.

(d) An affidavit attesting to the fact that the applicant has made diligent, but unsuccessful efforts to obtain permission to collocate the applicants telecommunications facilities on a tower or usable antenna support structure within one quarter mile radius of the proposed tower location or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another support structures within one quarter mile radius of the proposed location.

(e) Written technical evidence from an engineer that the proposed tower, telecommunications facilities, or antennas will meet the Municipal Code, all other construction standards set forth by the City Code and federal and state law and applicable ANSI standards.

(f) The applicant must provide certification that the tower and its proposed installation has been designed and engineered by professionals licensed in the structural engineering discipline.

(fg) Color photo simulations showing the proposed location of the tower, telecommunications facilities, or antenna with a photo-realistic representation of the proposed tower, telecommunications facilities, or antenna as it would appear viewed from the nearest residential zoned property and the nearest roadway, street, or highway.

(gh) Descriptions and diagrams of the proposed tower, telecommunications facilities, and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, fences or other security enclosures with sufficient detail to allow persons reviewing the application to understand the kind and nature of the proposed facilities.

(hi) If the Conditional Use Permit is approved, an application for a building permit shall be submitted.

#### **Sec. 109-27. Permits.**

(a) It shall be unlawful for any person to install, repair, or maintain, either as owner or agent for the owner or as an independent dealer or contractor, any tower, telecommunications facilities, or antenna, without first obtaining a permit from the City Manager or Designee.

(b) Notwithstanding anything herein to the contrary, minor repairs or maintenance to any tower, telecommunications facilities, or antenna may be made without the necessity of a permit as may be determined by the Building Inspector.

(c) Building Permit Information. Application for permits must made be made upon forms provided by the Community Development Department and shall contain the following information.

(1) The name and address of the owner.

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- (2) The name and address of the installer.
- (3) Whether or not the work done is a new installation or a repair.
- (4) The type of antenna.
- (5) The cost of the project.

(d) A permit and inspection fee shall be paid at the time the permit is issued. The fee schedule has been set by Resolution 09-24.

(e) Inspections. The City reserves the right to conduct an inspection of towers, antenna support structures, telecommunications facilities, or antennas upon reasonable notice to the owner or operator to determine compliance with this subchapter and to prevent structural and equipment failures and accidents which may cause damage, injuries, or nuisances to the public. Inspections may be made to determine compliance with the Building Code and any other construction standards set forth in the City Code, federal and state law, or applicable ANSI standards.

#### **Sec. 109-28. Contractors.**

(a) It shall be unlawful for any person to engage in or work at the business or trade of tower, communications facilities, or antenna construction, repair, or maintenance, without first applying for and receiving from the City a Limited and Specialty contractor's license.

(b) The fee for a Limited and Specialty contractor's license shall be as established by the City. The fee for said contractor's license shall be paid to the City Treasurer at the time of filing the application for the same and shall be refunded in case the City Council declines the approval of said application. No such license shall be issued unless the applicant first presents to the City Clerk a certificate of insurance, demonstrating that the applicant and his/her employees, agents, and subcontractors are covered by liability insurance with policy limits of no less than \$500,000.00, 1,000,000 USD for the period of the license. ~~The licensee shall ensure that all of his employees, agents, and subcontractors are covered by liability insurance of no less than \$500,000.00.~~

(c) The Limited and Specialty contractor's license term shall be valid and extend for 12 months from and after May 1<sup>st</sup> of each year, expiring on April 30<sup>th</sup> of the following year unless sooner revoked by the City Council.

#### **Sec. 109-29. Setbacks and separation or buffer requirements; illumination.**

(a) All towers, telecommunications facilities, or antennas shall be setback on all sides, the distance required of the principal structure as required by the underlying zoning districts regulations or 40% of the towers height whichever is greater. The height of a tower, telecommunications facilities, or antenna shall be measured from the grade at the foot of the base pad to the top of any such tower, telecommunications facilities, or antennas attached thereto. Setback requirements shall be measured from the base of the tower, telecommunications facilities, or antenna to the property line of the tract of land on which it is located.

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(b) Towers, telecommunications facilities, or antennas exceeding 100' in height must be separated from all residential zoned districts by a minimum of 200' or 100% of the height of the proposed tower, whichever is greater.

(c) Towers must meet the following separation requirements from other towers:

- (1) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of 750 feet.
- (2) Self-supporting lattice, or guyed towers shall be separated from all other self-supporting lattice, or guyed towers by 1500 feet.

(d) Towers, telecommunications facilities or antennas shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential zoned properties located within a distance of 300% of the height of the tower, any tower, telecommunications facilities, or antenna subject to this section shall be equipped with dual mode lighting.

**Sec. 109-30. Other requirements.**

(a) *Security and fences.* All self-supporting lattice or guyed towers, telecommunications facilities, or antennas shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of the structure.

(b) *Landscaping.* All tracts of land on which towers, antenna support structures, telecommunications facilities, and/or antennas are located shall be subject to the landscaping requirements of the City.

(c) *Exterior and Finish.* Towers, telecommunications facilities, or antennas not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the City Council as part of the application process. All towers, telecommunications facilities, or antennas which must be approved as a Conditional Use shall be of stealth design unless stealth features are impractical or the cost of the features represents undue burden based on the applicant.

(d) No owner of any tower, telecommunications facility, or antenna shall act to exclude any other owner from using the same tower, telecommunications facility, or antenna and shall cooperate in good faith to achieve collocation of telecommunication equipment.

**Sec. 109-31. Existing facilities.**

(a) *Maintenance.* The towers, antenna support structures, telecommunications facilities, and antennas shall be, at all times, kept and maintained in good condition, order and repair so that the same does not constitute a danger to the life or property of any person or the public.

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(b) *Maintenance, repair, or modification of existing towers.* All towers, telecommunications facilities, or antennas constructed or are under construction on the date of adoption of this article may continue in existence as a non-conforming structure and maybe maintained or repaired without complying with the requirements of this section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this article, including applying for and obtaining a Conditional Use Permit. Any modification or reconstruction of a tower constructed or under construction on the date of the adoption of this article shall require compliance with the requirements of this article including applying for and obtaining a Conditional Use Permit. The application shall describe and specify all items which do not comply with this article and may request, subject to the approval by the City Council, an exemption from compliance as a condition of the Conditional Use Permit.

(c) *Abandonment.* If any tower, telecommunications facilities, or antenna shall cease to be used for a period of one year, the Community Development Department shall notify the owner that the site will be subject to a determination by the City Manager or his or her designee that the site has been abandoned. Upon issuance of a notice to show cause by the City Manager, the owner shall have thirty days to show by a preponderance of the evidence that the tower, telecommunications facilities, or antenna has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower, telecommunications facilities, or antenna has been in use or under repair during the relevant period, the City Manager or his or her designee shall issue a final determination of abandonment of the site and the owner shall have 75 days thereafter to dismantle and move the tower, telecommunications facilities, or antenna. In the event the tower, telecommunications facilities, or antenna is not dismantled and moved, it may be declared a public nuisance by the City Manager or his or her designee, a written request shall be directed to the City Attorney to proceed to abate the public nuisance pursuant to the Municipal Code, and charges the costs thereof may be assessed against the real estate on which the tower is located or a civil action against the owner of record of real estate for the cost may be instituted by the City.

#### **Sec. 109-32. Liability.**

The owner of any tower, telecommunications facilities, or antenna within the City jurisdiction shall assume liability for personal injury or property damage to their own person or property or to the person or property of another caused by such tower, telecommunications facilities, or antenna or the malfunction of the same.

#### **Secs. 109-33—109-58. Reserved.**

#### **Sec. 115-96. District A, exclusive agriculture.**

(a) *Scope and intent.* This section applies to district A. The intent of this district is to recognize the transition between agricultural uses of the land and communities; to encourage the continued use of that land which is suitable for agriculture, but limit any land uses that may be a detriment to normal community expansion.



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|            |                    |     |    |    |     |                    |        |     |     |
|------------|--------------------|-----|----|----|-----|--------------------|--------|-----|-----|
|            |                    |     |    |    |     |                    | Street |     |     |
| Farm/ranch | <a href="#">10</a> | N/A | 1* | 50 | N/A | <a href="#">10</a> | 50     | N/A | N/A |
| Dwelling   | <a href="#">10</a> | N/A | 1* | 50 | N/A | <a href="#">10</a> | 50     | N/A | N/A |

\*See permitted use description.

(2) *Permitted accessory uses.*

- a. Buildings and uses customarily incidental to the permitted and conditional uses listed in this section.
  - b. Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the work.
  - c. Home occupations in conformance with [section 115-171](#)
  - d. Signs as permitted in [chapter 111](#)
  - e. Fences as permitted in [section 115-172](#)
  - f. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See [section 115-173](#)
  - g. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
  - h. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
  - i. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
  - j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in [section 115-170\(e\)](#).
  - k. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by [chapter 109](#), subject to the setback provisions in [section 115-170\(e\)](#) and not exceeding 60 feet in height.
- (e) *Feeding restrictions.* Feedlots and confinement facilities as defined in this chapter are prohibited within the two mile zoning boundary.

**Sec. 115-97. RR, Rural Residential District.**

- (a) *Scope and intent.* This section applies to district RR. The RR, Rural Residential District is intended to provide a transition from agriculture and ranching to low density residential development. This district is intended to accommodate larger residential estates with accompanying agricultural uses that do not conflict with residential uses.

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(b) *Permitted uses.*

- (1) Animals, except the number of animals shall not exceed a density of more than 1.0 animal units per acre.
- (2) Dwellings, one-family.
- (3) Public parks and playgrounds, including public recreation or service buildings within such parks.
- (4) Railroad rights-of-way not including railroad yards.
- (5) Stable, private.

(c) *Conditional uses.*

- (1) Golf courses and clubhouses and uses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a business.
- (2) Towers, telecommunications facilities, and antennas as permitted in chapter 109.
- (3) Reservoirs, wells, towers, filter beds, or water supply plants.
- (4) Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the council, after report of the city planning commission, deems reasonably necessary for public convenience or welfare.
- (5) Confinement of animal units where the density of units exceeds the allowable standard described in this section or where any other animal unit condition not described in section 115-96 is proposed.
- (6) Wind-driven electric generators with prior approval of the city electrical engineer.
- (7) Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property, only if approval is granted by the water superintendent.

(d) *Performance standards.*

(1) *Area and bulk regulations.*

| Use                      | Minimum Lot Size | Minimum Lot Width | Minimum Number of Dwelling Units | Setbacks (feet) |      |      |             | Maximum Height (feet) | Maximum Building Separation (feet) |
|--------------------------|------------------|-------------------|----------------------------------|-----------------|------|------|-------------|-----------------------|------------------------------------|
|                          |                  |                   |                                  | Front           | Rear | Side | Side Street |                       |                                    |
| Dwelling (single-family) | 2½ acres         | 150 feet          | 1                                | 50              | 50   | 15   | 50          | 30                    | 6                                  |
| Accessory building       | —                | —                 | —                                | 50              | 5    | 5    | 5           | 30                    | —                                  |

Minimum dwelling size: 800 square feet.

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(2) *Permitted accessory uses.*

- a. Sheds.
- b. Garages.
- c. Barns.
- d. Silos.
- e. Home occupations in conformance with section 115-171
- f. Signs as permitted in chapter 111
- g. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See section 115-173
- h. Fences as permitted in section 115-172
- i. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- j. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- k. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- l. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in section 115-170(e).
- m. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by chapter 109, subject to the setback provisions in section 115-170(e) and not exceeding 60 feet in height.

**Sec. 115-98. R-1, Single-Family Residential District.**

- (a) *Scope and intent.* This section applies to district R-1. The R-1, Single-Family Residential District is intended to provide a zone consisting primarily of single-family dwellings but which may have recreational, religious, and educational facilities to create a balanced neighborhood. This zone is intended to accommodate older neighborhoods in the community which were developed with smaller lot sizes.
- (b) *Permitted uses.*
  - (1) Dwellings, one-family.
  - (2) Publicly owned and operated community buildings, public museums, public libraries and churches.
  - (3) Public parks and playgrounds, including public recreation or service buildings within such parks, public administrative buildings, police and fire stations.

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- (4) Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on campus.
  - (5) Railroad rights-of-way, not including railroad yards.
  - (6) Manufactured homes subject to the following standards:
    - a. The home shall have no less than an 18-foot exterior width;
    - b. The roof shall be pitched with a minimum vertical rise of 2½ inches for each 12 inches of horizontal run;
    - c. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
    - d. The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
    - e. The home shall have wheels, axles, transport lights, and removal towing apparatus removed.
- (c) *Conditional uses.*
- (1) Golf courses and clubhouses and uses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a business.
  - (2) Group homes: provided that facility is not within 1,200 feet of another group home or a home of any size which serves other populations, including but not limited to correctional homes which serve people recuperating from the effects of drugs or alcohol, mental illness, or physical disability.
  - (3) Preschool nurseries and day care centers.
  - (4) Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the council, after report of the city planning commission, deems reasonably necessary for public convenience or welfare.
  - (5) Funeral homes.
  - (6) Bed and breakfasts.
  - (7) Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property, only if approval is granted by the water superintendent.
  - (8) Two-family dwelling.
  - (9) Abandoned church or school property as permitted in section 115-174

(d) *Performance standards.*

(1) *Area and bulk regulations.*

| Use | Minimum Lot Size | Minimum Lot Width | Minimum Number of | Setbacks (feet) | Maximum Height | Maximum Building |
|-----|------------------|-------------------|-------------------|-----------------|----------------|------------------|
|     |                  |                   |                   |                 |                |                  |

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|                          | (sq. ft.) | (feet) | Dwelling Units | Front     | Rear      | Side | Side Street | (feet) | Separation (feet) |
|--------------------------|-----------|--------|----------------|-----------|-----------|------|-------------|--------|-------------------|
| Dwelling (single-family) | 6,600     | 60     | 1              | <u>25</u> | <u>25</u> | 5    | 15          | 30*    | 6                 |
| Accessory building       | —         | —      | —              | <u>25</u> | 5         | 5    | <u>20</u>   |        | 6                 |

\*Or a 3.5 feet addition to required northern or eastern side yard requirements for each vertical foot above 25 feet.

- a. Minimum dwelling size: 800 square feet.
- b. Lot coverage: 40 percent of total lot area.

(2) *Permitted accessory uses.*

- a. Home occupations as defined in section 115-2 and provided in section 115-171
- b. One detached garage or other accessory off-street parking structures located in the rear or side yards. Garages and other accessory off-street parking structures located in R1 through R5 districts shall not be of greater height than the principal residence, and shall be constructed of materials and colors that match the primary residence. The garage or accessory off-street parking structure and the principal residence must have the same roof pitch, matching shingles and matching siding. If either the siding or shingles of the primary residence are no longer available, then the garage shall be constructed of materials that are similar to the primary residence.
- c. Signs as permitted in chapter 111
- d. Fences as permitted in section 115-172
- e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See section 115-173
- f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed 150 square feet in size, or unenclosed areas which are accessory to a principal nonresidential use not exceeding 200 square feet in area.

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- j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in section 115-170(e).
- k. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by chapter 109, subject to the setback provisions in section 115-170(e) and not exceeding 60 feet in height.

**Sec. 115-99. R-1A, Single-Family Residential District.**

- (a) *Scope and intent.* This section applies to district R-1A. The R-1A, Single-Family Residential District is intended to provide a zone consisting primarily of single-family dwellings but which may have recreational, religious, and educational facilities to create a balanced neighborhood. This zoning district is intended to accommodate new and more recent subdivisions of the community that were created with larger lot sizes.
- (b) *Permitted uses.*
  - (1) Dwellings, one-family.
  - (2) Publicly owned and operated community buildings, public museums, public libraries and churches.
  - (3) Public parks and playgrounds, including public recreation or service buildings within such parks, public administrative buildings, police and fire stations.
  - (4) Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on campus.
  - (5) Manufactured homes subject to the following standards:
    - a. The home shall have no less than an 18-foot exterior width;
    - b. The roof shall be pitched with a minimum vertical rise of 2½ inches for each 12 inches of horizontal run;
    - c. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
    - d. The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
    - e. The home shall have wheels, axles, transport lights, and towing apparatus removed.
- (c) *Conditional uses.*
  - (1) Golf courses and clubhouses and uses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a business.
  - (2) Group homes: provided that facility is not within 1,200 feet of another group home or a home of any size which serves other populations, including but not limited to correctional homes which serve people recuperating from the effects of drugs or alcohol, mental illness, or physical disability.

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- (3) Preschool nurseries and day care centers.
  - (4) Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the council, after report of the city planning commission, deems reasonably necessary for public convenience or welfare.
  - (5) Bed and breakfasts.
  - (6) Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property, only if approval is granted by the water superintendent.
  - (7) Two-family dwelling.
  - (8) Abandoned church or school property as permitted in section 115-174
- (d) *Performance standards.*
- (1) *Area and bulk regulations.*

| Use                      | Minimum Lot Size (sq. ft.) | Minimum Lot Width (feet) | Minimum Number of Dwelling Units | Setbacks (feet) |           |      |             | Maximum Height (feet) | Maximum Building Separation (feet) |
|--------------------------|----------------------------|--------------------------|----------------------------------|-----------------|-----------|------|-------------|-----------------------|------------------------------------|
|                          |                            |                          |                                  | Front           | Rear      | Side | Side Street |                       |                                    |
| Dwelling (single-family) | 7,000                      | 70                       | 1                                | <u>25</u>       | <u>25</u> | 5    | 15          | 30                    | 6                                  |
| Accessory building       | —                          | —                        | —                                | <u>25</u>       | 5         | 5    | <u>20</u>   | 30                    | 6                                  |

- a. Lot coverage: 40 percent of total lot area.
  - b. Minimum dwelling size: 1,000 square feet.
- (2) *Permitted accessory uses.*
- a. Some occupations as defined in section 115-2 and provided in section 115-171
  - b. One detached garage or other accessory off-street parking structures located in the rear or side yards. Garages and other accessory off-street parking structures located in R1 through R5 districts shall not be of greater height than the principal residence, and shall be constructed of materials and colors that match the primary residence. The garage or accessory off-street parking structure and the principal residence must have the same roof pitch, matching shingles and matching siding. If either the siding or shingles of the primary residence are no longer available, then the garage shall be constructed of materials that are similar to the primary residence.
  - c. Signs as permitted in chapter 111

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- d. Fences as permitted in section 115-172
- e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See section 115-173
- f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed 150 square feet in size, or unenclosed areas which are accessory to a principal nonresidential use not exceeding 200 square feet in area.
- j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in section 115-170(e).
- k. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by chapter 109, subject to the setback provisions in section 115-170(e) and not exceeding 60 feet in height.

**Sec. 115-100. District R-2, two-family residential.**

- (a) *Scope and intent.* This section applies to district R-2s. The R-2, Two-Family Residential District is intended to provide a zone consisting primarily of single-family dwellings, single-family attached dwellings (duplexes) and two family homes, but which may have recreational, religious, and educational facilities to create a balanced neighborhood.
- (b) *Permitted uses.*
  - (1) Dwellings, one-family.
  - (2) Publicly owned and operated community buildings, public museums, public libraries and churches.
  - (3) Public parks and playgrounds, including public recreation or service buildings within such parks, public administrative buildings, police and fire stations.
  - (4) Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on campus.
  - (5) Railroad rights-of-way, not including railroad yards.
  - (6) Dwellings, two-family.
  - (7) Manufactured homes subject to the following standards:

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- a. The home shall have no less than an 18-foot exterior width;
- b. The roof shall be pitched with a minimum vertical rise of 2½ inches for each 12 inches of horizontal run;
- c. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
- d. The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
- e. The home shall have wheels, axles, transport lights, and removal towing apparatus removed.

(c) *Conditional uses.*

- (1) Golf courses and clubhouses and uses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a business.
- (2) Group homes: provided that facility is not within 1,200 feet of another group home or a home of any size which serves other populations, including but not limited to correctional homes which serve people recuperating from the effects of drugs or alcohol, mental illness, or physical disability.
- (3) Preschool nurseries and day care centers.
- (4) Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the council, after report of the city planning commission, deems reasonably necessary for public convenience or welfare.
- (5) Funeral homes.
- (6) Bed and breakfasts.
- (7) Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property, only if approval is granted by the water superintendent.
- (8) Abandoned church or school property as permitted in section 115-174

(d) *Performance standards.*(1) *Area and bulk regulations.*

| Use                      | Minimum Lot Size (sq. ft.) | Minimum Lot Width (feet) | Minimum Number of Dwelling Units | Setbacks (feet) |      |      |             | Maximum Height (feet) | Maximum Building Separation (feet) |
|--------------------------|----------------------------|--------------------------|----------------------------------|-----------------|------|------|-------------|-----------------------|------------------------------------|
|                          |                            |                          |                                  | Front           | Rear | Side | Side Street |                       |                                    |
| Dwelling (single-family) | 6,600                      | 60                       | 1                                | 25              | 25   | 5    | 15          | 30*                   | 6                                  |

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|                    |       |    |   |           |           |   |           |     |   |
|--------------------|-------|----|---|-----------|-----------|---|-----------|-----|---|
| Duplex             | 3,500 | 60 | 2 | <u>25</u> | <u>25</u> | 5 | 15        | 30* | 6 |
| Accessory building | —     | —  | — | <u>25</u> | 5         | 5 | <u>20</u> | 30* | 6 |

\*Or a 3.5 feet addition to required northern or eastern side yard requirements for each vertical foot above 25 feet, but in no case higher than three stories.

- a. Minimum dwelling size: 750 square feet per unit if a two-family unit is constructed or 800 square feet if only a single-family unit is constructed.
- b. Lot coverage: 40 percent of total lot area.

(2) *Permitted accessory uses.*

- a. Home occupations as defined in section 115-2 and provided in section 115-171
- b. One detached garage or other accessory off-street parking structures located in the rear or side yards. Garages and other accessory off-street parking structures located in R1 through R5 districts shall not be of greater height than the principal residence, and shall be constructed of materials and colors that match the primary residence. The garage or accessory off-street parking structure and the principal residence must have the same roof pitch, matching shingles and matching siding. If either the siding or shingles of the primary residence are no longer available, then the garage shall be constructed of materials that are similar to the primary residence.
- c. Signs as permitted in chapter 111
- d. Fences as permitted in section 115-172
- e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use.
- f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed 150 square feet in size, or unenclosed areas which are accessory to a principal nonresidential use not exceeding 200 square feet in area.
- j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in section 115-170(e).

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- k. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by chapter 109, subject to the setback provisions in section 115-170(e) and not exceeding 60 feet in height.

**Sec. 115-101. R-3, Multifamily Residential District.**

- (a) *Scope and intent.* This section applies to district R-3. The R-3, Multifamily Residential District is intended to provide a zone consisting primarily of carefully designed medium and/or high density housing types, but which may have recreational, religious, and educational facilities to create a balanced neighborhood. Housing complexes constructed in the zone should create a transition from low density to higher intensity land uses and should encourage affordable housing, especially for young families, moderate to low income families and the elderly.
- (b) *Permitted uses.*
  - (1) Dwellings, one-family.
  - (2) Publicly owned and operated community buildings, public museums, public libraries and churches.
  - (3) Public parks and playgrounds, including public recreation or service buildings within such parks, public administrative buildings, police and fire stations.
  - (4) Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on campus.
  - (5) Railroad rights-of-way, not including railroad yards.
  - (6) Dwellings, two-family.
  - (7) Apartment houses, or other multiple dwellings.
  - (8) Fraternity or sorority houses and dormitories.
  - (9) Nursing, convalescent or senior citizens homes.
  - (10) Manufactured homes subject to the following standards:
    - a. The home shall have no less than an 18-foot exterior width;
    - b. The roof shall be pitched with a minimum vertical rise of 2½ inches for each 12 inches of horizontal run;
    - c. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
    - d. The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
    - e. The home shall have wheels, axles, transport lights, and removal towing apparatus removed.
- (c) *Conditional uses.*

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- (1) Preschool nursery and day care centers.
  - (2) Boardinghouses and lodgings.
  - (3) Group home.
  - (4) Hospitals and sanitariums.
  - (5) Golf courses and clubhouses and uses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a business.
  - (6) Group homes: provided that facility is not within 1,200 feet of another group home or a home of any size which serves other populations, including but not limited to correctional homes which serve people recuperating from the effects of drugs or alcohol, mental illness, or physical disability.
  - (7) Preschool nurseries and day care centers.
  - (8) Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the council, after report of the city planning commission, deems reasonably necessary for public convenience or welfare.
  - (9) Funeral homes.
  - (10) Bed and breakfasts.
  - (11) Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property, only if approval is granted by the water superintendent.
  - (12) Abandoned church or school property as permitted in section 115-174
- (d) *Performance standards.*
- (1) *Area and bulk regulations.*

| Use                      | Minimum Lot Size (sq. ft.) | Minimum Lot Width (feet) | Minimum Number of Dwelling Units | Setbacks (feet) |           |      |             | Maximum Height (feet) | Maximum Building Separation (feet) |
|--------------------------|----------------------------|--------------------------|----------------------------------|-----------------|-----------|------|-------------|-----------------------|------------------------------------|
|                          |                            |                          |                                  | Front           | Rear      | Side | Side Street |                       |                                    |
| Dwelling (single-family) | 6,600                      | 60                       | 1                                | <u>25</u>       | <u>25</u> | 5    | 15          | 30*                   | 6                                  |
| Duplex                   | 3,500                      | 60                       | 2                                | <u>25</u>       | <u>25</u> | 5    | 15          | 30*                   | 6                                  |
| Dwelling (multi-family)  | 2,000                      | 60                       | n/a                              | <u>25</u>       | <u>25</u> | 5    | 15          | 35*                   | 6                                  |
| Accessory                | —                          | —                        | —                                | <u>25</u>       | 5         | 5    | <u>20</u>   | —                     | 6                                  |

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|          |  |  |  |  |  |  |  |  |  |
|----------|--|--|--|--|--|--|--|--|--|
| building |  |  |  |  |  |  |  |  |  |
|----------|--|--|--|--|--|--|--|--|--|

\*Or a 3.5 feet addition to required northern or eastern side yard requirements for each vertical foot above 35 feet.

- a. Minimum dwelling size: 570 square feet per unit if the unit is larger than a two-family dwelling; 750 square feet per unit if a two-family unit is constructed, and 800 square feet for each single-family unit is constructed.
- b. Lot coverage: 40 percent of total lot area.

(2) *Permitted accessory uses.*

- a. Home occupations as defined in [section 115-2](#) and provided in [section 115-171](#)
- b. Recreation areas including tenant use swimming pool, and minor recreation buildings, tenant trash collection centers, power generators, vending machines for tenant use and other similar uses.
- c. Signs as permitted in [chapter 111](#)
- d. Fences as permitted in [section 115-172](#)
- e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See [section 115-173](#)
- f. Garages and other accessory off-street parking structures located in all residential districts shall not be of greater square footage or height than the principal residence and shall be constructed of similar materials and colors and be in character and scale with existing neighborhood construction.
- g. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- h. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- i. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- j. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed square feet in size, or unenclosed areas which are accessory to a principal nonresidential use not exceeding 200 square feet in area.
- k. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in [section 115-170\(e\)](#).
- l. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by [chapter 109](#), subject to the setback provisions in [section 115-170\(e\)](#) and not exceeding 60 feet in height.

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**Sec. 115-102. R-4, Residential Mobile Home Park District.**

- (a) *Scope and intent.* This section applies to district R-4. The R-4, Residential Mobile Home Park District is intended to provide for the location of mobile homes on rented lots that may, or may not, conform to lot size requirements of more traditional single-family residential subdivisions and which may accommodate mobile, or modular, homes in a less restrictive manner than the traditional single-family residential subdivision.
- (b) *Permitted uses.*
- (1) Dwellings, one-family.
  - (2) Publicly owned and operated community buildings, public museums, public libraries and churches.
  - (3) Public parks and playgrounds, including public recreation or service buildings within such parks, public administrative buildings, police and fire stations.
  - (4) Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on campus.
  - (5) Railroad rights-of-way, not including railroad yards.
  - (6) Mobile homes on rented lots.
  - (7) Other permanent facilities in conjunction with owning and operating a park.
  - (8) Mobile homes located on individually owned lots shall be permitted within residential mobile home parks subject to the following provisions:
    - a. Mobile homes so located after October 8, 1987, shall comply with all regulations set forth in section 115-103, and, any addition or enlargement of an existing residential mobile home park after the effective date of the ordinance from which this section is derived shall comply in total with the regulations governing district R-5, single-family residential mobile home.
    - b. Mobile homes located on individually owned lots shall be served by independent connection to municipal water and sanitary sewer lines.
    - c. The sale of an unplatted lot or space within a mobile home park shall be approved by the planning commission and city council in compliance with statutory requirements for the subdivision of land.
    - d. Mobile homes or modular homes placed on individually owned lots shall meet the following or basement requirements: Foundation or basement requirement. All modular homes, manufactured housing units, sectionalized unit homes, site constructed homes, mobile homes, and any other structure used as a residence located in this zone, shall be placed upon basements or permanent perimeter foundations complying with the city's building code. The city building inspector may grant a delay of foundation construction due to adverse winter weather conditions, in such case the foundation shall be completed within 30 days of resumption of permissible construction weather.

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e. The minimum area of an existing tract in a mobile home park as of October 8, 1987, shall be 4,000 square feet in order to transfer ownership.

(c) *Conditional uses.*

- (1) Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the council, after report of the city planning commission, deems reasonably necessary for public convenience or welfare.
- (2) Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property, only if approval is granted by the water superintendent.
- (3) Abandoned church or school property as permitted in section 115-174

(d) *Performance standards.*

- (1) Area and bulk regulations.

| Use                             | Minimum Lot Size (sq. ft./DU) | Maximum Number of Dwelling Units | Front Setbacks* (feet) | Maximum Mobile Home Separation** | Height (stories)                 |                  |
|---------------------------------|-------------------------------|----------------------------------|------------------------|----------------------------------|----------------------------------|------------------|
| <b>Dwelling (single family)</b> |                               |                                  |                        |                                  |                                  |                  |
| Rented lot                      | —                             | 1/lot                            | 25                     |                                  | 1                                |                  |
| Owned lot                       | 4,000                         | 1/lot                            | 25                     |                                  | 1                                |                  |
| <b>Dwelling (single family)</b> |                               |                                  |                        |                                  |                                  |                  |
| Use                             | Minimum Lot Size (sq. ft./DU) | Minimum Number of Dwelling Units | Front Setbacks* (feet) | Maximum Height (feet)            | Maximum Mobile Home Separation** | Height (stories) |
| <b>Dwelling (single family)</b> |                               |                                  |                        |                                  |                                  |                  |
| Rented lot                      | —                             | 1/lot                            | 25                     | 30*                              |                                  | 1                |
| Owned lot                       | 4,000                         | 1/lot                            | 25                     | 30*                              |                                  | 1                |

\*The following exceptions regarding setbacks apply to the R-4 zone: The set back on lots along the north side of 8th Street between Flack and Pine Avenues, and the south side of 9th Street between Flack and Pine Avenues, and the east side of Flack Avenue between 2nd and 3rd Streets and the north side of 2nd Street between Flack Avenue and Avenue A, and lots abutting a dedicated public street of 60 feet or more, may be measured from the curbline, or curbline extended, of such street or avenue instead of from the property line to effect setback compliance, but in no event shall any mobile home be located so as to encroach on a platted city street. Although a number of mobile homes in the areas

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aforementioned will not now, as of this date have the prescribed 25 feet front set back even after counting the width of the parking established between curblin, curblin extended, and the property line, as those lots are sold, the full 25 feet setback from the street or avenue curblin shall be required between the curblin or curblin extended and the mobile home.

**\*\*Mobile home separations:**

End to end: six feet

End to side: eight feet

Side to side: ten feet

**a. Minimum dwelling size.**

1. One bedroom: 570 square feet.
2. Two bedroom: 700 square feet.
3. Three bedroom: 850 square feet.
4. Four bedroom: 1,020 square feet.

**b. Lot coverage: 30 percent of total lot area.**

**c. Skirting: The entire undercarriage and wheel assembly shall be screened from the view by means of a nonflammable skirting material of metal or concrete construction that shall extend from the mobile home pad to the floor level.**

**d. Single-wide and double-wide mobile homes, located in district R-4, on rented lots, may be placed upon basements or permanent foundations or, as a minimum, shall meet tie-downs, anchorage, pier and footing requirements of the Department of Defense Publication TR-75, which is hereby adopted by reference as if printed in the chapter.**

**(2) Permitted accessory uses.**

**a. Home occupations as defined in section 115-2 and provided in section 115-171**

**b. Signs as permitted in chapter 111**

**c. Fences as permitted in section 115-172**

**d. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See section 115-173**

**e. Garages and other accessory off-street parking structures located in all residential districts shall not be of greater square footage or height than the principal residence and shall be constructed of similar materials and colors and be in character and scale with existing neighborhood construction. The total area of all garages and other accessory off-street parking structures, whether integral with the home, attached, or detached from the home, in residential areas shall not exceed 2,000 square feet per lot. Only one detached garage per dwelling lot is permitted.**

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- f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed 150 square feet in size, or unenclosed areas which are accessory to a principal nonresidential use not exceeding 200 square feet in area.
- j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in section 115-170(e).
- k. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by chapter 109, subject to the setback provisions in section 115-170(e) and not exceeding 60 feet in height.

(e) *Design criteria.*

- (1) *Height and area regulations.* Mobile home parks may be developed only in the R-4 zone districts where this use is permitted in accordance with the following requirements:
  - a. *Park area.* The park has a minimum site area of 217,800 square feet or five acres with a minimum of ten developed mobile home lots.
  - b. *Complies to state and municipal regulations.* The park complies with all state and municipal licensing procedures, health, zoning, plumbing, electrical, building, fire prevention and all other applicable zoning ordinances and regulations of the city.
- (2) *Distance between structures.* Any portion of a mobile, or manufactured home, excluding the tongue, shall not be located closer than ten feet side to side, eight feet end to side, or six feet end to end horizontally from any other mobile or manufactured home or community building. No mobile home shall be located closer than 25 feet to any exterior property line.
- (3) *Design requirements.*
  - a. The request for this use shall specify the location and legal description of such proposed mobile home park and a plan of the park to include property dimensions, interior roads, proposed mobile home sites, sanitary utility lines and other improvements.
  - b. The park is properly landscaped, in the opinion of the planning commission, so as not to constitute a nuisance to other residence.

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- c. Mobile homes in such parks shall be limited to use for residential purposes, except for the mobile home park office.
- d. Entrances to a mobile home park shall have direct connections to an improved public street and shall be designed to allow free movement of traffic on any adjacent public street.
- e. The design of private drives serving mobile home parks shall conform to all minimum street paving and width standards and shall have proper curb and gutter design.
- f. Utilities shall adhere to municipal utility spacing standards.

**Sec. 115-103. R-5, Single-Family Residential Mobile Home District.**

(a) *Scope and intent.* This section applies to district R-5. The R-5, Single-Family Residential Mobile Home District is intended to provide for the location of mobile homes on lots owned by the mobile home owner in a traditional single-family residential subdivision setting.

(b) *Permitted uses.*

- (1) Dwellings, one-family.
- (2) Publicly owned and operated community buildings, public museums, public libraries and churches.
- (3) Public parks and playgrounds, including public recreation or service buildings within such parks, public administrative buildings, police and fire stations.
- (4) Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on campus.
- (5) Railroad rights-of-way, not including railroad yards.
- (6) Mobile home on individually owned lots.

(c) *Conditional uses.*

- (1) Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the council, after report of the city planning commission, deems reasonably necessary for public convenience or welfare.
- (2) Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property, only if approval is granted by the water superintendent.
- (3) Abandoned church or school property as permitted in section 115-174

(d) *Performance standards.*

(1) *Area and bulk regulations.*

| Use | Minimum Lot Size | Minimum Lot Width | Minimum Number of | Setbacks (feet) | Maximum Height | Maximum Building |
|-----|------------------|-------------------|-------------------|-----------------|----------------|------------------|
|-----|------------------|-------------------|-------------------|-----------------|----------------|------------------|

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|                          | (sq. ft.) | (feet) | Dwelling<br>Units | Front | Rear | Side | Side<br>Street | (feet) | Separation<br>(feet) |
|--------------------------|-----------|--------|-------------------|-------|------|------|----------------|--------|----------------------|
| Dwelling (single-family) | 7,000     | (a)    | 1                 | 25    | 25   | 5    | 15             | 30     | 6                    |
| Accessory Building       | —         | —      | —                 | 25    | 5    | 5    | 20             | —      | 6                    |

a. Minimum lot dimensions and lot exceptions

1. Minimum lot dimensions: Minimum lot dimensions in district R-5 shall be 60 feet wide by 130 feet deep curvilinear platted lots shall have the minimum lot width at the front building setback line and shall contain the minimum lot area.
2. The planning commission and city council may approve previously platted lots not meeting the minimum dimensions of this section if said lots meet the minimum setback requirements and the minimum lot area of 7,800 square feet. Such approval shall be on an individual lot basis.

b. Minimum dwelling size.

1. One bedroom: 570 square feet.
2. Two bedroom: 700 square feet.
3. Three bedroom: 850 square feet.
4. Four bedroom: 1,020 square feet.

c. The minimum mobile home width in this district shall be 14 feet.

d. No R-5 district shall be created which contains less than five acres of contiguous area.

(2) *Permitted accessory uses.*

a. Home occupations as defined in section 115-2 and provided in section 115-171

b. One detached garage or other accessory off-street parking structures located in the rear or side yards. Garages and other accessory off-street parking structures located in R1 through R5 districts shall not be of greater height than the principal residence, and shall be constructed of materials and colors that match the primary residence. The garage or accessory off-street parking structure and the principal residence must have the same roof pitch, matching shingles and matching siding. If either the siding or shingles of the primary residence are no longer available, then the garage shall be constructed of materials that are similar to the primary residence.

c. Signs as permitted in chapter 111

d. Fences as permitted in section 115-172

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- e. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See section 115-173
- f. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- g. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- h. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- i. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed 150 square feet in size, or unenclosed areas which are accessory to a principal nonresidential use not exceeding 200 square feet in area.
- j. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in section 115-170(e).
- k. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by chapter 109, subject to the setback provisions in section 115-170(e) and not exceeding 60 feet in height.

(e) *Development requirements.*

- (1) Foundation or basement requirement. All modular homes, manufactured housing units, sectionalized unit homes, site constructed homes, mobile homes, and any other structure used as a residence located in this zone, shall be placed upon basements or permanent perimeter foundations complying with the city's building code. The city building inspector may grant a delay of foundation construction due to adverse winter weather conditions, in such case the foundation shall be completed within 30 days of resumption of permissible construction weather.
- (2) Permit requirements. No mobile home or manufactured housing unit shall be located in this district without a building permit issued by the city building department.
- (3) Permit fees shall be calculated using valuation data adopted by the city for conventional construction.
- (4) Site improvements. All lots in this district shall be serviced by the municipal water supply and sanitary sewer systems and shall be otherwise improved to the requirements of chapter 113, subdivisions.

**Sec. 115-104. C-O, Commercial Office District.**

- (a) *Scope and intent.* This section applies to district C-O. The C-O, Commercial Office District is intended to provide a zone for the conduct of low impact commercial office and health

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services uses. The low impact developments within this zone are viewed as an ideal buffer between residential land uses and heavier commercial or industrial uses.

(b) *Permitted uses.*

- (1) Professional, governmental and business office buildings.
- (2) Health, dental and eye care offices/clinics.
- (3) Day care facilities.
- (4) Churches, places of worship and religious assemblies.

No equipment, material or vehicle other than motor passenger cars shall be stored outside a building in this district.

(c) *Conditional uses.*

- (1) Clubs and fraternal organizations.
- (2) Towers, telecommunications facilities, and antennas as permitted in chapter 109.
- (3) Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the council, after report of the city planning commission, deems reasonably necessary for public convenience or welfare.
- (4) Funeral home.
- (5) Hospital.
- (6) Pharmacy.
- (7) Other uses clearly associated with the intent of the C-O, Commercial Office District.
- (8) Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property, only if approval is granted by the water superintendent.

(d) *Performance standards.*

(1) *Area and bulk regulations.*

| Use                 | Minimum Lot Size (sq. ft.) | Minimum Lot Width (feet) | Setbacks (feet) |      |      |             | Maximum Height (feet) | Maximum Building Separation (feet) |
|---------------------|----------------------------|--------------------------|-----------------|------|------|-------------|-----------------------|------------------------------------|
|                     |                            |                          | Front           | Rear | Side | Side Street |                       |                                    |
| Principal Structure | None                       | None                     | 25              | 25   | A    | A           | 30*                   | 6                                  |
| Accessory Building  | —                          | —                        | 25              | 5    | 5    | 20          |                       | 6                                  |

Note-

- A. There shall be a side yard on each side of a building not less than ten percent of the width of the lot; except that such side yard shall not be less than five feet and need not

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be more than 50 feet and except side yard setbacks adjacent to platted streets shall be at least 20 feet.

\*Or a 3.5 feet addition to required northern or eastern side yard requirements for each vertical foot above 30 feet.

(2) *Permitted accessory uses.*

- a. Food service and vending machines for tenants only, private garages for motor vehicles, apartment for maintenance personnel, low-level exterior lighting, flagpoles, cooling towers, and other similar uses.
- b. Storage of goods sold by a principal commercial activity, or used in or produced by a principal manufacturing activity engaged in by the same firm on the same lot.
- c. Television, radio receiving and transmitting equipment, and satellite dishes as permitted by chapter 109, subject to the setback provisions in section 115-170(e) and not exceeding 60 feet in height.
- d. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use. See section 115-173
- e. Signs as permitted in chapter 111
- f. Fences as permitted in section 115-172
- g. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
- h. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
- i. Open area devoted to decorative paving, swimming pools, tennis courts, and other similar uses, located on the same lot as the principal use.
- j. Storage and service areas and buildings serving a principal use on the same lot, provided that storage buildings do not exceed 150 square feet in size, or unenclosed areas which are accessory to a principal nonresidential use not exceeding 200 square feet in area.
- k. A single trailer, camper, motor home or a boat, incidental to and on the same lot as principal residential uses, but only if the trailer, camper, motor home, or boat is not intended for habitation while it is on the lot, subject to the setback provisions in section 115-170(e).

**Sec. 115-105. C-1, Neighborhood Commercial District.**

(a) *Scope and intent.* This section applies to district C-1. The C-1, Neighborhood Commercial District is intended to provide a zone for the conduct of low impact commercial uses that are solely intended to support the convenience of residents, and activity carried on within, a residential neighborhood.

(b) *Permitted uses.*