

**CITY OF FARMERSVILLE  
PLANNING AND ZONING COMMISSION AGENDA  
REGULAR CALLED MEETING  
APRIL 15, 2013  
6:30 P.M., COUNCIL CHAMBERS, CITY HALL**

**I. PRELIMINARY MATTERS**

- Call to Order, Roll Call, Prayer and Pledge of Allegiance
- Welcome guests and visitors and Citizen Comments: Anyone wanting to speak on any items that are not the subject of a Public Hearing on this agenda is asked to speak at this time, with an individual time limit of 3 minutes. This forum is limited to a total of 30 minutes. *(Please note that the Planning and Zoning Commission cannot respond to, discuss or take any action regarding citizen comments made hereunder because of the limitations established by the Texas Open Meetings Act, Texas Government Code Chapter 551, violations of which Act carry criminal penalties.)*

**II. ITEMS FOR DISCUSSION AND POSSIBLE ACTION**

- A. Consider, discuss and act upon minutes from March 18, 2013 P&Z Meeting
- B. Consider, discuss and act to amend Section 56-31 of the Sign Ordinance pertaining to digital signs
- C. Consider, discuss possible amendment of the Specific Use Permit process within the City of Farmersville Code of Ordinances in regard to uses requiring a Specific Use Permit

**III. ADJOURNMENT**

- No action may be taken on comments received under "Recognition of Visitors".
- The Commission may vote and/or act upon each of the items listed in the Agenda.

***The Planning and Zoning Commission reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney).***

*Persons with disabilities who plan to attend this meeting and who may need assistance should contact the City Secretary at 972-782-6151 or Fax 972-782-6604 at least two (2) working days prior to the meeting so that appropriate arrangements can be made. Handicap Parking is available in the front and rear parking lot of the building.*

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted in the regular posting place of the City Hall building for Farmersville, Texas, in a place and manner convenient and readily accessible to the general public at all times, and said Notice was posted on April 12, 2013, by 5:00 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.



**Tom Waitschies, Chairman**

**Dated this the 12<sup>th</sup> day of April, 2013.**



**Edie Sims, City Secretary**





**TO:** Planning and Zoning Commission  
**FROM:** Edie Sims, City Secretary  
**DATE:** April 15, 2013  
**SUBJECT:** Discuss, approve or disapprove minutes from March 18, 2013 Planning and Zoning Meeting

Minutes can be found at the -following website:

[http://www.farmersvilletx.com/government/agendas\\_and\\_minutes/planning\\_and\\_zoning/index.jsp](http://www.farmersvilletx.com/government/agendas_and_minutes/planning_and_zoning/index.jsp)

**ACTION:** Approve, make changes or disapprove minutes

FARMERSVILLE PLANNING & ZONING COMMISSION  
REGULAR SESSION MINUTES  
March 18, 2013

The Farmersville Planning and Zoning Commission met in regular session on March 18, 2013 at 6:30 p.m. at the City of Farmersville Council Chambers with the following members present: Bill Nerwich, Craig Overstreet, Betty Sergent, Lee Warren, Tom Waitschies and Bryce Thompson. Mark Vincent was absent. Staff members present was City Manager Ben White, City Attorney Alan Lathrom and City Secretary Edie Sims. Council Liaison Michael Carr was not present.

**CALL TO ORDER AND RECOGNITION OF CITIZENS/VISITORS**

Chairman Tom Waitschies called the meeting to order at 6:30pm. Edie Sims called roll and announced that a quorum was present. Chairman Waitschies offered the invocation and the Pledge of Allegiance.

**Item II – A) CONSIDER, DISCUSS AND ACT UPON MINUTES FROM FEBRUARY 21, 2013 P&Z MEETING**

Lee Warren motioned to approve the minutes as presented with Betty Sergent seconding the motion. Motion carried unanimously.

**Item II – B) CONSIDER, DISCUSS AND ACT TO AMEND SECTION 56-31 OF THE SIGN ORDINANCE PERTAINING TO DIGITAL SIGNS**

City Manager Ben White came before the Commission and stated the staff kept the signage size not to exceed 50 square feet with no animation and all aspects of the ordinance as before with the exception of Item 3. With no method of testing the dimming technology, the previously submitted information was revitalized. Mr. White simplified the dimming and felt it was a good balance for our town. Mr. White chose not to include color as we do not want to hold other signs to creativity standards.

Questions were raised about dimming and how a sign owner would adjust the brightness of the electronic signs. A control usually is on the sign which will allow the brightness to be adjusted or an automatic control can be purchased. Lee Warren questioned why we would not allow scrolling, such as the Princeton High School sign. Mr. White indicated that with the 8 second change there should not be an issue with allowing scrolling, not to mention the size of the sign allowance. Mr. White stated he would rather err on the side of safety. Craig Overstreet stated he could not support the ordinance as written such the wording is subjective and thought the ordinance as a whole was too restrictive.

Mr. White offered an alternative which would return the wording to the original presentation, a copy of the City of McKinney's electronic sign messaging center. Mr. White also offered to take the newly formed ordinance to Quick Check and Brookshire's. This is intended to be a good-will effort so that any future changes to their signs would fall under the new ordinance guidelines. City Attorney Alan Lathrom requested to add verbiage stating the 50 square foot will apply according to zoning districts and types of signs chosen. Bill Nerwich motioned to have Item 3 returned to the original presentation per the City of McKinney's sign ordinance; add verbiage regarding zoning and have Mr. White speak with Quick Check and Brookshire's and to

present the changed ordinance to the next P&Z meeting. Bryce Thompson seconded the motion. Motion carried unanimously.

**Item III) ADJOURNMENT**

Craig Overstreet motioned to adjourn with Lee Warren seconding the motion. P&Z Commission adjourned at 7:01 p.m.

ATTEST:

\_\_\_\_\_  
Tom Waitschies, Chairman

\_\_\_\_\_  
Edie Sims, City Secretary



TO: Planning and Zoning Commission  
FROM: Edie Sims, City Secretary  
DATE: April 15, 2013  
SUBJECT: Consider, discuss and act to amend Section 56-31 of the Sign Ordinance pertaining to digital signs

- A Draft Ordinance is presented for review

**ACTION:** Discuss the topic and make recommendations for changes.

*NOTE: Changes recommended will be brought back to the Commission in the form of an ordinance. If changes are solidified, a Public Hearing must be called and publicized before acting on the changes which would then be recommended to the Council for final approval.*

**CITY OF FARMERSVILLE  
ORDINANCE O-2013-0611-001**

**AN ORDINANCE OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERSVILLE, TEXAS, AS HERETOFORE AMENDED, THROUGH THE AMENDMENT OF CHAPTER 56, "SIGNS AND ADVERTISING," BY THE AMENDMENT OF SECTION 31, ENTITLED "DEFINITIONS; SIGN REGULATIONS AND REQUIREMENTS," BY DELETING THE EXISTING DEFINITION, REGULATIONS AND REQUIREMENTS OF AN "ELECTRONIC MESSAGE CENTER" IN ITS ENTIRETY AND REPLACING SAID DEFINITION, REGULATIONS AND REQUIREMENTS WITH A NEW DEFINITION, REGULATIONS AND REQUIREMENTS FOR AN "ELECTRONIC MESSAGE CENTER"; REPEALING ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR NOTICE AND IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City desires to promote growth and business opportunities in Farmersville; and

**WHEREAS**, the City Council of the City of Farmersville, Texas finds that all prerequisites to the adoption of this Ordinance have been met; and

**WHEREAS**, the City Council of the City of Farmersville, Texas finds that it is in the best interest of the public health, safety and welfare to amend the Sign Ordinance regarding Electronic Message Center signs;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, THAT:**

**SECTION 1. INCORPORATION OF FINDINGS**

All of the above premises are hereby found to be true and correct legislative and factual determinations of the City of Farmersville and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2. AMENDMENT OF CHAPTER 56, "SIGNS AND ADVERTISING," BY THE AMENDMENT OF SECTION 31, "DEFINITIONS; SIGN REGULATIONS AND REQUIREMENTS"**

From and after the effective date of this Ordinance, Section 56-31, entitled "Definitions; Sign Regulations and Requirements," is hereby amended by deleting the existing definition, regulations and requirements of an "Electronic Message Center" in its entirety and replacing it with a new definition, regulations and requirements for an "Electronic Message Center" to read as follows:

*"Electronic message center means any sign composed of lights, LEDs, or other form of illumination that displays a message or picture. An electronic message center is usually secondary to and part of the sign area of a larger freestanding sign for which a sign permit is required. Electronic message center signs shall be permitted subject to the*

applicable provisions within the zoning districts in which the sign is located as well as the following additional requirements:

- (1) An electronic message center sign shall not exceed 50 square feet in area. If an electronic message center is secondary to, incorporated into, or a component part of another type of sign, the fact that an electronic message center sign is so included shall not act to permit the type of sign of which it is a part to be enlarged beyond the dimensions and sign area allowed for the other type of sign. For example, the incorporation of an electronic message center into a "projecting sign," defined herein-below, shall not act to increase the allowable maximum area of a projecting sign beyond 12 square feet.
- (2) Electronic message center signs shall display static images for a period of at least eight seconds. Electronic message signs shall not be animated, flash, travel, blink, fade or scroll. Electronic message signs shall transition instantaneously to another static image. Rotary beacon lights, flashing lights, strobe lights, or similar devices shall not be attached to, nor be incorporated in, any sign.
- (3) An electronic message center sign shall not exceed a brightness level of 0.3 foot-candles above ambient light as measured by the guidelines below:
  - a. At least 30 minutes past sunset, use a foot-candle meter to record the ambient light reading for the area. This reading is performed while the electronic message center sign is off or displaying all black copy.
  - b. Take a reading using foot-candle meter at five feet above grade and 45 feet from the electronic message center sign.
  - c. The meter shall be aimed directly at the electronic message center sign.
  - d. Turn the electronic message center sign on and illuminate entirely in white or red.
  - e. Take a reading using a meter at five feet above grade and 45 feet from the electronic message center sign.
  - f. The meter shall be aimed directly at the electronic message center sign.
  - g. If the difference between the two readings taken above is 0.3 foot-candles or lower, then the electronic message center sign is in compliance. If the result is greater than 0.3 foot-candles, the electronic message center sign is out of compliance and must be adjusted to meet standards or turned off until compliance can be met.

- h. All measurements shall be taken in foot-candles.
- (4) Letters shall be no less than 4 inches in height.
  - (5) Exception: Temporary signs required by government agencies for road and street repairs, public notifications, traffic control and similar activities.
  - (6) In all zoning districts, electronic message center signs shall come equipped with automatic dimming technology, which automatically adjusts the sign's brightness based on ambient light.
  - (7) Electronic message center signs have previously been prohibited in the City of Farmersville, Texas. Notwithstanding that prohibition, a few electronic message signs have been installed with or without permits. Electronic message signs that have been in continuous use for at least six months prior to the adoption of this ordinance will be considered a lawful nonconforming sign, and may continue to be used for their current purpose and in their current dimensions only.
  - (8) Any change, upgrade, or retrofit of the previously existing electronic message center sign and/or sign cabinet shall require full compliance with the requirements of this provision.
  - (9) An electronic message center sign existing prior to the adoption of this ordinance shall conform to the brightness level(s) set forth herein-above if the brightness of the lawful nonconforming electronic message center sign may be regulated either manually or automatically. An electronic message center sign existing prior to the adoption of this ordinance shall be required to include automatic dimming technology upon any change, upgrade, or retrofit of the existing electronic message center sign and/or sign cabinet.

### **SECTION 3. CUMULATIVE REPEALER**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

### **SECTION 4. SAVINGS**

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending



litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 5. SEVERABILITY**

It is hereby declared to be the intention of the City Council of the City of Farmersville that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by valid judgment or final decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

#### **SECTION 6. GOVERNMENTAL IMMUNITY**

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Farmersville in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

#### **SECTION 7. INJUNCTIONS**

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Farmersville in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Farmersville.

#### **SECTION 8. ENGROSSMENT AND ENROLLMENT**

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Farmersville and by filing this Ordinance in the Ordinance records of the City.

#### **SECTION 9. EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

**PASSED** on first reading on the 28<sup>th</sup> day of May, 2013, and the second reading on the 11<sup>h</sup> of June, 2013, at properly scheduled meetings of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

**APPROVED THIS 11<sup>th</sup> DAY OF JUNE, 2013.**

**APPROVED:**

\_\_\_\_\_  
Joseph E. Helmberger, P.E., Mayor

**ATTEST:**

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Edie Sims, City Secretary



TO: Planning and Zoning Commission

FROM: Edie Sims, City Secretary

DATE: February 21, 2013

SUBJECT: Consider, discuss possible amendment of the Specific Use Permit process within the City of Farmersville Code of Ordinances in regard to uses requiring a Specific Use Permit

- Staff recommended Preferred SUP Ordinance
- Current Farmersville Ordinances regarding Specific Use Permits is attached

**ACTION: Discuss, approve or disapprove recommending amendments of the Specific Use Permit process with an Ordinance and schedule Public Hearings for same**

## **Preferred SUP Ordinance**

### Sec. 77-138. - Specific use permits.

The city council by an affirmative vote may, after public hearing and proper notice to all parties affected, and after recommendations from the planning and zoning commission that the use is in general conformance with the master plan of the city and containing such requirements and safeguards as are necessary to protect adjoining property, authorize the granting of a specific use permit for those uses indicated by "S" in the schedule of uses to this chapter, according to the following criteria:

- (1) An application for a specific use permit shall be accompanied by a site plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings; the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings, and fences; and the relationship of the intended use to all existing properties and land uses in all directions. A specific use permit that will require the construction of a new structure shall be accompanied by said site plan. A site plan may not be required if a specific use permit is applied for that will locate in an existing structure, if the director of planning determines that the existing site adequately addresses the above elements and a site plan is not necessary to evaluate the specific use permit.
- (2) In recommending that a specific use permit for the premises under consideration be granted, the planning and zoning commission shall determine that such uses are harmonious with and adaptable to building structures and uses of abutting property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, heights of structures, and whether the building is compatible for the use under consideration.
- (3) Every specific use permit granted under these provisions shall be considered as an amendment to the zoning chapter and shall remain applicable to the property so long as all conditions imposed at the time of granting said permit continue to be met and no substantive change in the use of the property occurs. In the event the building, premises, or land use under the specific use permit is voluntarily vacated for a period in excess of 180 days, the use of the same shall thereafter conform to the regulations of the original zoning district of such property unless a new and separate specific use permit is granted for continuation of the same.

(11) Special specific use permit regulations and considerations are as follows:

- a. Car wash. In the BN neighborhood business district, a specific use permit may be approved to allow a car wash only in connection with an auto fuel sales facility. The car wash shall be limited to a fully automated facility, which will accommodate only one vehicle at a time. The location and orientation of the facility on the site and the proximity of residentially zoned areas shall be considered, in addition to any other factors deemed appropriate, in determining whether the permit should be approved.
- b. Service station. In the BN neighborhood business district, motor vehicle fuel sales with facilities to fuel four vehicles at one time is allowed by right and motor vehicle fuel sales with facilities to fuel up to eight vehicles is allowed by right if the gas pumps are located within 350 feet of the intersection of two arterial roadways as shown on the thoroughfare plan. A specific use permit may be approved to allow additional facilities to fuel more than the number of vehicles allowed by right regardless of the location. Additionally, no major automotive repairs, body and fender work or automotive painting may be conducted. All uses and waste materials must be kept within a solid enclosure so that the contents are not visible from the street or other properties, and no stock of goods may be displayed out of doors with the exception of lubricants and additives for frequent sale, and no lighting may be constructed to shine on neighboring properties used for residential purposes. A maximum of two brand identification signs shall be allowed if their only illumination is non-flashing and does not contain a rotating, oscillating or revolving beam or beacon of light. They may be installed at the property line. They shall also conform to chapter 134. In determining whether a specific use permit should be approved to allow this use in a district where such permit would be required, the number of fueling stations, the range of automotive services to be provided and the proximity of residentially zoned areas shall be considered, in addition to any other factors deemed appropriate.
- c. Private club. A private club may be approved to allow for social and dining facilities, as well as alcoholic beverage service in all districts specified in the schedule of uses. Private clubs shall meet the requirements listed under the definition of "private clubs" in section 146-46
- d. Bed and breakfast facilities. Bed and breakfast facilities may be approved in all districts specified in the schedule of uses. Bed and breakfast facilities shall develop according to the regulations set out in chapter 138, article IV, of this Code and made a part hereof.
- e. Private street subdivisions. Private street developments may be approved in all districts specified in the schedule of uses. Private street developments

shall develop according to the regulations set out in chapter 142, article VII, and made a part hereof.

- f. Mini-warehouse uses. Mini-warehouse facilities shall be allowed with the approval of a specific use permit in all districts specified in the schedule of uses. All proposed mini-warehouse developments requiring approval of a specific use permit shall satisfy the following development standards:
  1. No overhead bay doors or loading areas shall be visible from an adjacent use or public right-of-way;
  2. Each building shall be covered with 100 percent masonry materials (brick or stone);
  3. Proposed mini-warehouse buildings located directly adjacent to residential uses or zones shall be limited to a single story; and
  4. Proposed mini-warehouse buildings located directly adjacent to single family residential uses or zones shall feature a pitched roof (minimum 4:12 slope).

In determining whether a specific use permit should be approved to allow this use in a district where such permit would be required, the following factors shall be considered:

1. The compatibility of the proposed use with the adjacent uses and other uses in the immediate area;
  2. The development's proposed location within the city; and
  3. Any other factors deemed appropriate.
- g. Other uses. Those uses indicated by "S" in the schedule of uses of this chapter shall require the approval of a specific use permit, and shall comply with the requirements of this chapter.

## CURRENT FARMERSVILLE ORDINANCES REGARDING SPECIFIC USE PERMITS

### **Sec. 77-138. - Specific use permits.**

The city council, after a public hearing and proper notice to all parties affected, and after recommendation by the planning and zoning commission, may authorize the issuance of specific use permits for the uses indicated by "S" in the use schedules in sections 77-93 through 77-103 and as listed in section 77-135.

- (1) The planning and zoning commission in considering and determining its recommendations to the city council on any request for a specific use permit may require from the applicants plans, information, operating data, and expert evaluation concerning the location and function and characteristics of any building or use proposed. The city council may, in the interest of the public welfare and to ensure compliance with this article, establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized. In authorizing the location of any of the uses listed as specific use permits, the city council may impose such development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property from excessive noise, vibration, dust, hazardous conditions.
- (2) All specific use permits approved in accordance with the provisions of the ordinance, in its original form or as hereafter amended, from which this chapter is derived shall be referenced on the zoning district map, and a list of such permits shall be maintained in the appendix on file in the city clerk's office.

*(Comp. Ord. of 3-11-2008)*

\* \* \* \*

### **Sec. 77-172. - Special area and accessory building regulations.**

- (a) *Court standards.* The minimum dimensions and area for outer or inner courts provided in buildings occupied for residential purposes shall be in accordance with the following provisions:
  - (1) *Outer courts residential structures.*
    - a. For residential structures, three stories or less in height, any outer court which is used for access of light or air or which may be used for emergency access purposes shall be a minimum width equal to the depth of the court, but the width of any such outer court need not exceed 30 feet even though the depth of the court may exceed such dimension.

- b. For residential structures exceeding three stories in height, any outer court which is used for access of light or air or which maybe used for emergency access purposes shall have a minimum width equal to the depth of the court, but the width of any such outer court need not exceed 50 feet even though the depth of the court may exceed such dimension.
- (2) *Inner courts residential structures.*
- a. For residential structures three stories or less in height, any inner court which is used for access of light or air or which may be used for emergency access purposes shall have minimum dimensions in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such court, but neither the width or the length of the base of such inner court need exceed 30 feet even though the height of the enclosing walls may exceed such dimension.
  - b. For residential structures exceeding three stories in height, any inner court which is used for access of light or air or which maybe used for emergency access purposes shall have a minimum dimension in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such court, but neither the width or the length of the base of such inner court need exceed 50 feet even though the height of the enclosing walls may exceed such dimension.
- (b) *Accessory building regulations.* Area regulations for accessory buildings in residential and apartment districts are as follows:
- (1) *Front yard.* Attached accessory buildings shall have a front yard not less than the main building. Detached accessory building shall be located in the area defined as the rear yard.
  - (2) *Side yard.* There shall be a side yard not less than three feet from any side lot line, alley line, or easement line, except that adjacent to a side street the side yard shall never be less than ten feet. Where a firewall is provided, no side yard need be provided on one side of a lot only for accessory building located in the rear one-half of the lot. (See appendix illustration 3 on file in the city secretary's office.)
  - (3) *Rear yard.* There shall be a rear yard not less than three feet from any lot line, alley line, or easement line, except that if no alley exists the rear yard shall not be less than ten feet as measured from the rear lot line. In residential districts, the main building and all accessory buildings shall not cover more than 50 percent of that portion of the lot lying to the rear of a line erected joining the mid point of one side lot line with the mid point of the opposite side lot line. Carport garages or other detached accessory buildings located within the rear portion of the lot as heretofore described shall not be located nearer than three feet to any side lot line except where a firewall has been provided which meets the requirements of the city building and fire codes, no rear yard for accessory



building shall be required. (See appendix illustration 3 on file in the city secretary's office.)

- (4) *Garage.* Any garage constructed in a residential or apartment district, detached or as an integral part of the main structure, shall be set back not less than 20 feet from any street or alley line on which it faces or from which it has access.

(c) *Special area accessory use regulations.*

- (1) *Tennis courts.* It is the purpose of these provisions to recognize a tennis court as a potential attractive nuisance and to promote the safety and enjoyment of property rights by established rules and regulations governing the location and improvement of tennis courts whether privately, publicly, or commercially owned or operated.

- a. *Permits and approvals.* No tennis courts shall be constructed or used until a tennis court building permit and certificate of occupancy have been issued therefor.

- b. *Requirements.* A tennis court may be constructed and operated when:

- 1. The court is not located in any required front or side yard abutting a street;
    - 2. The court is located behind the front yard or front building line and shall be no closer than three feet from the property line;
    - 3. A wall or fence with a minimum of six feet and a maximum of ten feet in height completely encloses either the court area or the surrounding yard area;
    - 4. All lighting of the court is shielded or directed to face way from adjoining residences. If lights are not individually shielded, they shall be so placed, or the enclosing wall or fence shall be so designed, that direct rays from the lights shall not be visible from adjacent properties.

- (2) *Swimming pools.* It is the purpose of these provisions to recognize an outdoor swimming pool as a potential attractive nuisance and to promote the safety and enjoyment of property rights by established rules and regulations governing the location and improvement of swimming pools whether privately, publicly or commercially owned or operated.

- a. *Permits and approvals.* No swimming pool shall be constructed or used until a swimming pool building permit and a certificate of occupancy have been issued therefor. No building permit and no final certificate of occupancy shall be issued unless the proposed sanitary facilities and water supply comply with applicable local and state health department regulations.

- b. *Requirements.* A swimming pool may be constructed and operated when:

1. The pool is not located in any required front or side yard abutting a street;
2. The pool is located behind the front yard or front building line and shall be no closer than three feet from the property line.

(3) *Specific use permit application requirements for game rooms.*

- a. Game rooms shall be permitted only in the Light Industrial (I-1) District upon the granting of a specific use permit (SUP);
- b. The specific use permit shall be a personal license specific to:
  1. The game room named in the ordinance granting the SUP;
  2. The physical address of the game room identified in the ordinance granting the SUP; and,
  3. The person(s) and/or entity(ies) that own the game room;
- c. The specific use permit shall not be transferable to any other named game room, location or owner;
- d. The specific use permit shall be for an initial period not to exceed six months;
- e. The applicant may seek an extension or further renewal of the SUP prior to the expiration of the then current SUP with the length of any such renewal being from six months to two years as may be determined appropriate in the sole discretion of the planning and zoning commission and city council;
- f. No person under the age of 18 years shall be permitted inside the building, structure, facility or space housing the Game Room;
- g. A sign stating that no one under the age of 18 is allowed inside the game room building shall be posted in plain sight immediately inside the entrance stating that:

"No person under the age of 18 years shall be permitted inside the building, structure, facility or space housing the Game Room"
- h. The number and various types of coin-operated machines or devices allowed to be provided, exhibited and/or operated in the game room shall be plainly requested by the applicant and the actual numbers coin-operated machines or devices approved to be installed in the game room shall be specified in the ordinance granting such an SUP.
- i. The applicant shall submit a site plan, landscape plan and floor plan of the game room interior, in addition to any other plans that may be required by the city's ordinances, drawn to scale and sealed by a professional engineer or professional architect licensed by the state depicting the layout of the game room interior specifically including, but not limited to, the location of all coin-operated machines or devices, the manager's station(s), restroom facilities, kitchen and bar facilities, if any, and all areas to which patrons will not be permitted;

- j. No game room shall be situated within 1,000 feet of any church, school, hospital or any other game room, with the distance being measured in a straight line without regard to intervening objects or structures and from the nearest lot line of the game room seeking a SUP to the nearest lot line of the church, school, hospital or any other game room;
- k. No skill or pleasure gaming machines, which are an accessory use to the primary use that is situated in a building, structure, facility or space, shall be permitted to be placed within 300 feet of any church, school or hospital;
- l. Only one game room shall be permitted on any lot or in any building, structure or strip center;
- m. The hours of operation for a game room shall be limited to the following hours:
  - 1. Monday through Thursday, open at 8:30 a.m. and close at 11:00 p.m.;
  - 2. Friday and Saturday, open at 8:30 a.m. and close at 12:00 a.m.; and
  - 3. Sundays and holidays, open at 12:00 p.m. and close at 11:00 p.m.;
- (o) All coin-operated machines or devices, described herein above shall be permitted by and the occupation tax thereon paid to the state and the city;
- (p) The grant of an SUP shall not relieve the applicant, owner and/or operator of a game room or the subject coin-operated machines or devices from any other and further obligations under the City Code; and,
- (q) Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or gaming machine, the keeping, exhibition, operation, display or maintenance of which is illegal or in violation of any ordinance of the city, any section of the penal code of this state, or the constitution of this state.

*(Comp. Ord. of 3-11-2008; Ord. No. O-2010-1109-002, § 4, 11-9-2010)*