

1954

## City of West Palm Beach, Florida, Zoning Code

City Commission

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**CITY OF WEST PALM BEACH  
FLORIDA**

**ZONING CODE**

CITY OF WEST PALM BEACH

FLORIDA

ZONING CODE

## CHAPTER 47.

### ZONING.

#### Sec. 47.1. Definitions.

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure" and the word "shall" is mandatory and not directory.

✓1. *Accessory Building*: A subordinate building, the use of which is incidental to that of the dominant use of the main building or land. An accessory use is one which is incidental to the main use of the premises.

✓2. *Alley*: A way which affords only a secondary means of access to property abutting thereon.

3. *Apartment*: A room or suite of rooms intended or designed for use as a residence by a single family, including bath and culinary accommodations.

4. *Apartment House*: See Dwelling, Multiple.

5. *Basement*: A story having part, but not more than one-half ( $1/2$ ), of its height above grade and used for storage, garages for use of occupants of the building, janitor or watchman quarters, or other utilities common for the rest of the building. A basement used for the above purpose shall not be counted as a story, provided its height in the clear shall not exceed seven feet six inches (7'6").

✓6. *Boarding House*: A building other than a hotel where, for compensation pursuant to previous arrangement, meals or lodging and meals are provided for three (3) or more persons.

7. *Building*: Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.



8. *Building, Height of:* The vertical distance from the grade to the highest point of the coping of a flat room, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

9. *Cellar:* That portion of a building between floor and ceiling which is wholly or partly below grade, and having more than one-half ( $1/2$ ) of its height below grade.

10. *Combination Home:* A building where, for compensation pursuant to previous arrangement, a combination of the type of services offered and provided by a nursing home, a convalescent home, and a home for the aged (boarding home), as those terms are defined elsewhere herein, are offered or provided for three (3) or more persons.

11. *Convalescent Home:* A building where, for compensation pursuant to previous arrangement, care is offered or provided for three (3) or more persons suffering from illness, other than mental or chronic illness or a contagious disease, which is not of sufficient severity to require hospital attention, or for three or more persons requiring further institutional care after being discharged from a hospital, other than a mental hospital.

12. *District:* Any section of the City of West Palm Beach for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

13. *Dwelling:* Any building or portion thereof which is designed for or used for residential purposes.

14. *Dwelling, Single-Family:* A building designed for or occupied exclusively by one (1) family.

15. *Dwelling, Two-Family:* A building designed for or occupied exclusively by two (2) families.

16. *Dwelling, Multiple:* A building designed for or occupied exclusively by three (3) or more families.

17. *Family*: One (1) or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel, as herein defined.

18. *Farm*: An area which is used for the growing of the usual farm products such as vegetables, fruits, and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses including dairy farms with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.

19. *Filling Stations*: Any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any automobile fuels or oils. When such dispensing, sale, or offering for sale is incidental to the conduct of a public garage, the premises are classified as a public garage.

20. *Frontage*: All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or, if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

21. *Garage Apartment*: An accessory or subordinate building, not a part of or attached to the principal building, where a portion of such building contains living facilities for not more than one (1) family and an enclosed space for at least one (1) standard-sized automobile is attached to the living quarters.

22. *Garage, Private*: An accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

23. *Garage, Public*: A building or portion thereof, other than a private or storage garage, designed or used for equip-

ping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

24. *Garage, Storage:* A building or portion thereof designed or used exclusively for term storage by prearrangement of motor-driven vehicles, as distinguished from daily storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

25. *Grade:*

a. The grade shall be the elevation of the back of the sidewalk at the center of the building wall facing the street. On corner lots, the grade shall be the average of the elevations of the sidewalks at the center of the building walls facing the streets.

b. Where no sidewalk exists, such sidewalk grade shall be established by the City Engineer.

c. In residential areas, the finished building floor elevation shall be a minimum of twelve (12") inches above grade.

d. Where buildings are located within five (5') feet of the street line, the finished building floor elevation shall be a minimum of three (3") inches above grade.

26. *Home Occupation:* Any occupation or activity carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign, other than a name plate not more than one (1) square foot in area, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises; no person is employed other than a member of the immediate family residing on the premises; and no mechanical equipment is used except of a type that is similar in character to that normally used for purely domestic or household purposes.

Home occupation shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman, or other pro-

fessional person for consultation or emergency treatment, but not for the general practice of his profession.

27. *Home for the Aged (boarding home)*: A building where, for compensation pursuant to previous arrangement, domiciliary and custodial care is furnished for three (3) or more aged persons, some of whom may require medical and nursing supervision.

28. *Hotel*: A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boarding house, a lodging house, or an apartment, each of which is herein separately defined.

29. *Institution*: A building occupied by a non-profit corporation or a non-profit establishment for public use.

30. *Lodging House*: A building other than a hotel where lodging for three (3) or more persons is provided for compensation pursuant to previous arrangement and not to anyone who may apply.

31. *Lot*: A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this Ordinance, and having its principal frontage upon a street or upon a lawfully approved thoroughfare.

32. *Lot, Corner*: A lot abutting upon two (2) or more streets at their intersection.

33. *Lot, Double Frontage*: A lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot.

34. *Lot of Record*: A lot which is part of a subdivision, the map of which has been recorded in the office of the Clerk of the Circuit Court of Palm Beach County; or a parcel of land, the deed of which was recorded in the office of the Clerk

of the Circuit Court of Palm Beach County on or before the effective date of this Ordinance.

35. *Non-Conforming Use:* The use of a building, or portion thereof, or land, or portion thereof, which use does not conform with the use regulations of the district in which it is situated.

36. *Nursing Home:* A building where, for compensation pursuant to previous arrangement, care is offered or provided for three (3) or more persons of varying grades of illness but of not sufficient severity to require hospital attention. Patients or residents of nursing homes are normally persons in some state of chronic illness requiring a large measure of domiciliary care in addition to necessary nursing care.

37. *Parking Space:* A durably surfaced area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) standard automobile, exclusive of a surfaced driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

38. *Place:* An open, unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

39. *Rooming House:* See Lodging House.

40. *Story:* That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

41. *Story, Half:* A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3') feet above the top floor level, and in which space not more than sixty (60%) percent of the floor area is finished off for use. A half story may be used for occupancy only in conjunction with, and by the occupants of, the floor immediately below.

42. *Street*: A public or private thoroughfare which affords the principal means of access to abutting property.

43. *Street Line*: A dividing line between a lot, tract, or parcel of land and a contiguous street right-of-way.

44. *Structure*: Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts, and pergolas.

45. *Structural Alterations*: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls, excepting such repair or replacement as may be required for the safety of the building.

46. *Tourist Home*: A building other than a hotel where lodging is provided and offered to the public for compensation for three (3) or more, but not exceeding twenty (20), individuals and which is open to transient guests, with which there is used only one sign not more than two (2) square feet in area, the lighting of which shall be regulated by the Building Inspector.

47. *Tourist or Trailer Camp*: An area where one (1) or more tents or auto trailers can be or are intended to be parked, designed or intended to be used as temporary living facilities of one (1) or more families and intended primarily for automobile transients.

48. *Yard*: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

49. *Yard, Front:* A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

50. *Yard, Rear:* A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard.

51. *Yard, Side:* A yard between the main building and the side line of the lot, extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

## **Sec. 47.2. Districts and General Regulations Thereof.**

1. In order to regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes; to regulate and restrict the height and size of buildings hereafter erected or structurally altered, the size of yards and other open spaces, and the density of population, the City of West Palm Beach is hereby divided into districts of which there shall be eleven (11) in number known as:

- "R-1" Single-Family District
- "R-2" Single-Family District
- "R-3" Two-Family District
- "R-4" Four-Family District
- "R-5" Multiple Dwelling District
- "C-1" Neighborhood Shopping District
- "C-2" Commercial District



- "C-3" Central Business District
- "M-1" Light Industrial
- "M-2" Industrial District
- "W" Conservation District

2. The boundaries of the districts are shown upon the map which is made a part of this ordinance, which map is designated as the "District Map." The District Map and all the notations, references, symbols, colorings, and other information shown thereon is a part of this Ordinance and has the same force and effect as if the District Map and all the notations, references, symbols, colorings, and other information shown thereon were all fully set forth or described herein, the original of which District Map, prepared by the City Engineer, is on file in the office of the Clerk of the City of West Palm Beach, properly attested and identified.

3. All territory which may hereafter be annexed to the City of West Palm Beach, Florida, shall be automatically classified in the "R-1" Single-Family District until otherwise changed by ordinance after public hearing.

4. Whenever any street, alley, or other public way is vacated by official action of the City Commission of the City of West Palm Beach, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

5. All areas within the corporate limits of the City of West Palm Beach, which are under water and not shown as included within any district, shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins two or more districts, the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.

6. Except as hereinafter provided:

a. No building shall be erected, converted, enlarged, re-constructed, or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.

b. No building shall be erected, converted, enlarged, re-constructed, or structurally altered to exceed the height limit herein established for the district in which the building is located.

c. No building shall be erected, converted, enlarged, re-constructed or structurally altered except in conformity with the area regulations of the district in which the building is located.

d. The minimum yards and other open spaces, including lot area per family, required by this Ordinance for each and every building existing at the time of passage of this Ordinance, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of this Ordinance.

e. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one (1) main building on one (1) lot unless otherwise provided in this Ordinance.

f. Excepting deep lots, to-wit, that where a lot in a "R-3" or "R-4" District contains more than six thousand (6,000) square feet, an additional main building may be erected on each additional area of not less than six thousand (6,000) square feet thereof, exclusive of an access road having a minimum width of ten (10') feet with proper turn around, same to be maintained by the owners to permit public service.

g. Residential lots in new subdivisions shall have a minimum width of fifty (50') feet fronting on a public street with a minimum area of five thousand (5,000) square feet.

### **Sec. 47.3. "R-1" Single-Family District Regulations.**

1. The regulations set forth in this Section, or set forth

elsewhere in this ordinance, when referred to in this Section, are the district regulations in the "R-1" Single-Family Districts.

2. *Use Regulations:* A building or premises shall be used only for the following purposes:

a. Single-family dwellings.

b. Parks, playgrounds, and community buildings owned or operated by public agencies.

c. Public libraries and museums.

d. Public schools, elementary and high, or private school having a curriculum the same as ordinarily given in a public elementary school or public high school and having no rooms regularly used for housing or sleeping purposes.

e. Churches or temples, but any church or temple that is erected on a new site shall provide and maintain off-street parking space upon the lot or within three hundred (300') feet thereof, which space is adequate to accommodate one (1) car for every five (5) persons for whom seating is provided in the main auditorium of the church or temple exclusive of the seating capacity of Sunday school and other special rooms.

f. Accessory buildings, including a private garage and accessory uses, customarily incident to the above uses (not involving the conduct of a business), including home occupations and the use of a lot or portion thereof for a normal vegetable or flower garden. Any accessory building that is not a part of the main structure shall be located not less than sixty (60') feet from the front lot line and not less than ten (10') feet from any portion of the main building. Accessory buildings shall also include church or public building bulletin boards and temporary signs appertaining to the lease, hire, or sale of a building or premises, not exceeding ten (10) square feet in area.

3. *Height Regulations:* No building shall exceed two (2) stories nor shall it exceed thirty (30') feet in height, except as hereinafter provided.

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4. *Parking Regulations:* Whenever the following structures are erected or reconstructed they shall be provided with off-street parking space on the same lot as the main building in accordance with the following minimum requirements:

a. *Single-Family Dwellings:* One (1) parking space for each one-family dwelling unit shall be required.

b. *Churches and Temples:* One (1) parking space for each five (5) seats provided in the main auditorium.

c. *Schools and Public Buildings:* One (1) parking space for every one thousand (1,000) square feet of floor area.

5. *Area Regulations:*

a. *Front Yard:*

(1) There shall be a front yard having a depth of not less than twenty-five (25') feet, unless forty (40%) percent or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have a front yard that is greater or less than twenty-five (25') feet, in which case no building shall project beyond the average front yard so established but this regulation shall not be interpreted to require a front yard of more than fifty (50') feet.

(2) On double frontage lots the required front yard shall be provided on both streets.

(3) Where a lot is located at the intersections of two (2) or more streets, there shall be a front yard on each street side of a corner lot, except that the width of the yard along the side street shall not be less than twelve and one-half (12½') feet.

No accessory building shall project beyond the front yard line on either street.

b. *Side Yard:* There shall be two side yards, one on each side of the building, having a combined width of not less than fifteen (15') feet, provided that in no case shall either side yard be less than five (5') feet in width.

c. *Rear Yard:* Except as hereinafter provided, there shall be a rear yard having a depth of not less than fifteen (15')

feet, except that the minimum rear yard need not exceed ten percent of the total depth of the property.

d. *Lot Area Per Family*: Every lot or tract of land shall have an area of not less than six thousand (6,000) square feet and an average width of not less than sixty (60') feet, except that, if a lot or tract has less area or width than herein required and was of record at the time of the effective date of this ordinance, that lot or tract may be used for single-family dwelling purposes.

#### **Sec. 47.4. "R-2" Single-Family District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance, when referred to in this Section, are the district regulations in the "R-2" Single-Family Districts.

2. *Use Regulations*: A building or premises shall be used only for the following purposes:

a. Any use permitted in the "R-1" Single-Family Districts.

b. Garage apartment, but only when the area of the lot conforms to the lot area requirements of this Section.

3. *Height Regulations*: The height regulations are the same as those in the "R-1" Single-Family Districts.

4. *Parking Regulations*: The parking regulations are the same as those in the "R-1" Single-Family District, except that an off-street parking space shall also be provided for the living unit in the garage apartment.

5. *Area Regulations*:

a. *Front Yard*: The front yard regulations are the same as those in the "R-1" Single-Family Districts.

b. *Side Yard*: The side yard regulations are the same as those in the "R-1" Single-Family Districts.

c. *Rear Yard*: The rear yard regulations are the same as the rear yard regulations of the "R-1" Single-Family District.

d. *Lot Area Per Family*:

(1) Every lot or tract of land shall have an area of not less than six thousand (6,000) square feet and an average width of not less than sixty (60') feet, except that, if a lot has less area or width than herein required and was of record at the time of the effective date of this ordinance, that lot or tract may be occupied by a single-family dwelling.

(2) Any lot or tract upon which a garage apartment is erected shall contain not less than six thousand (6,000) square feet, except that, if a lot area or width has less area than herein required and was of record at the time of the effective date of this ordinance, that lot or tract may be occupied by a garage apartment, but not on a lot having less than five thousand (5,000) square feet.

#### **Sec. 47.5. "R-3" Two-Family District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance, when referred to in this Section, are the district regulations of the "R-3" Two-Family Districts.

2. *Use Regulations:* A building or premises shall be used only for the following purposes:

a. Any use permitted in the "R-2" Single-Family District.

b. Two-family dwellings.

c. Accessory buildings and uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business.

3. *Parking Regulations:*

a. The parking regulations for single-family dwellings, garage apartments, churches, schools, and public buildings are the same as those in the "R-1" and "R-2" Single-Family Districts.

b. Whenever a building is erected, converted, or structurally altered for a two-family dwelling, one (1) parking space shall be provided on the lot for each dwelling unit in the building.

4. *Height Regulations:* No building shall exceed two and one-half ( $2\frac{1}{2}$ ) stories nor shall it exceed thirty-five (35') feet in height, except as hereinafter provided.

5. *Area Regulations:*

a. *Front Yard:* The front yard regulations are the same as those in the "R-1" Single-Family District, including corner lot setbacks as in "R-1" Single-Family Districts.

b. *Side Yard:* (a) There shall be two (2) side yards, one on each side of the building, having a combined width of not less than fifteen (15') feet, provided that in no case shall either side yard be less than five (5') feet in width.

c. *Rear Yard:* The rear yard regulations are the same as the rear yard regulations of the "R-1" Single-Family District.

d. *Lot Area Per Family:* Except as hereinafter provided, every dwelling hereafter erected, enlarged, relocated, reconstructed, or structurally altered shall be located upon lots containing the following areas:

(1) A lot occupied by a single-family or a two-family dwelling shall contain an area of not less than five thousand (5,000) square feet.

(2) An additional area of fifteen hundred (1,500) square feet shall be required whenever a garage apartment is erected upon any lot.

(3) Where a lot has less area than herein required and was of record at the effective date of this ordinance, that lot may be used for single-family dwelling purposes.

**Sec. 47.6. "R-4" Four-Family District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance, when referred to in this Section, are the district regulations of the "R-4" Four-Family Districts.

2. *Use Regulations:* A building or premises shall be used only for the following purposes:

a. Any use permitted in the "R-3" Two-Family Districts.



b. Multiple dwellings accommodating not more than four (4) families.

c. Rooming and boarding houses.

d. Fraternities, sororities, private clubs, and lodges, excepting those the chief activity of which is a service customarily carried on as a business.

e. Convalescent homes and homes for the aged (Boarding Homes).

f. Accessory buildings and uses customarily incident to any of the above uses, including storage garages, where the lot is occupied by a multiple dwelling, private club, lodge, convalescent home, and home for the aged. Any private storage garage or accessory building that is not a part of the main building shall be located not less than sixty (60') feet from the front lot line and not less than ten (10') feet from the main building.

### 3. *Parking Regulations:*

a. The parking regulations for single-family dwellings, garage apartments, churches, schools, and public buildings are the same as those in the "R-1" and "R-2" Single-Family Districts.

b. Where a lot is occupied by a two-family or multiple dwelling, there shall be provided an accessible parking space on the lot adequate to accommodate not less than one (1) car for every dwelling unit within the building.

c. Whenever a structure is erected, converted, or structurally altered for a fraternity or sorority, there shall be provided accessible parking space on the lot adequate to accommodate one (1) car for every six (6) beds contained in the structure.

d. Whenever a structure is erected or used for a rooming or boarding house, there shall be provided accessible parking space on the lot adequate to accommodate one (1) car for every two (2) guest rooms.

4. *Height Regulations:* No building shall exceed two and one-half (2½) stories or shall it exceed thirty-five (35') feet in height, except as hereinafter provided.

## 5. Area Regulations:

### a. Front Yard:

(1) There shall be a front yard having a depth of not less than twenty (20') feet, unless forty (40%) percent or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed a greater or less depth of front yard, in which case no building shall project beyond the average front yard so established, but this regulation shall not be interpreted to require a front yard of more than thirty-five (35') feet.

(2) Where lots have a double frontage, the required front yard shall be provided on both streets.

(3) Where a lot is located at the intersection of two (2) or more streets, the width of the side yard along the side street shall not be less than twelve and one-half ( $12\frac{1}{2}$ ) feet.

b. *Side Yard:* There shall be two (2) side yards, one on each side of the building, having a combined width of not less than fifteen (15') feet, provided, that in no case shall either side yard be less than five (5') feet in width.

c. *Rear Yard:* Except as hereinafter provided, there shall be a rear yard having a depth of not less than fifteen (15') feet. Except the minimum rear yard shall not exceed ten (10) percent of the total depth of the property.

d. *Lot Area Per Family:* Except as hereinafter provided, every dwelling hereafter erected, enlarged, relocated, reconstructed, or structurally altered shall be located upon lots containing the following areas:

(1) A lot occupied by a single-family dwelling shall contain a lot area of not less than four thousand (4,000) square feet per family.

(2) A lot occupied by a two-family dwelling shall contain a lot area of not less than two thousand (2,000) square feet per family.

(3) A lot occupied by a three-or four-family dwelling shall contain an area of not less than one thousand (1,000) square

feet per family, except that this regulation shall not apply to rooming or boarding houses, dormitories, fraternities, and sororities where no cooking is done in individual rooms or apartments.

(4) Where a lot has less area than herein required and was of record on the effective date of this ordinance, that lot may be used only for single-family dwelling purposes.

**Sec. 47.7. "R-5" Multiple Dwelling District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance, when referred to in this Section, are the district regulations of the "R-5" Multiple Dwelling Districts.

2. *Use Regulations:* A building or premises shall be used only for the following purposes:

- a. Any use permitted in the "R-4" Four-Family Districts.
- b. Multiple dwellings.
- c. Hotels, apartment hotels, and motels.
- d. Institutions of a religious, educational, eleemosynary, or philanthropic nature, but not penal or mental institutions.
- e. Hospitals, except criminal or mental hospitals, nursing homes and combination homes, doctors offices, and similar professional uses.
- f. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, where the lot is occupied by a multiple dwelling, hotel, club, hospital, or institutional building. Any private storage garage or accessory building that is not a part of the main building shall be located not less than sixty (60') feet from the front line and not less than ten (10') feet from the main building.

3. *Parking Regulations:*

a. The parking regulations for single-family, two-family, and multiple dwellings and for rooming and boarding houses, garage apartments, churches, schools, fraternities, and public buildings are the same as those in the "R-4" Four-Family District.

b. Whenever a structure is erected, converted, or structurally altered for a hospital or institution, there shall be provided accessible parking space upon the lot adequate to accommodate one (1) car for every six (6) beds contained in the structure.

c. Whenever a building is erected or reconverted as a hotel or apartment hotel, there shall be one (1) parking space for every three (3) guest sleeping rooms or for every two (2) dwelling units in the building.

4. *Height Regulations:* No building shall exceed three (3) stories or forty-five (45') feet in height at the required front, side, and rear yard lines, but, above the height permitted at said yard lines, one (1') foot may be added to the height of the building for each one (1') foot that the building or portion thereof is set back from the required yard lines, provided, however, that in no instance shall the building exceed a height of ten (10) stories or one hundred twenty-five (125') feet and except as hereinafter provided.

5. *Area Regulations:*

a. *Front Yard:* The front yard regulations for buildings not exceeding three (3) stories in height are the same as those in the "R-4" Four-Family District.

b. *Side Yard:*

(1) The side yard regulations for buildings not exceeding two and one-half (2½) stories in height are the same as those in the "R-4" Four-Family District.

(2) Except as hereinafter provided, there shall be a side yard on each side of a three- (3) story building which shall have a width of not less than eight (8') feet.

(3) For buildings exceeding three (3) stories in height, the width of the side yard shall be increased in accordance with the regulations of paragraph 4. of this Section.

c. *Rear Yard:* The rear yard regulations for buildings not exceeding three (3) stories in height are the same as those in the "R-1" One-Family Districts. For buildings exceeding

three (3) stories, the rear yard shall be increased in accordance with the requirements of paragraph 4. of this Section.

d. *Lot Area Per Family*: Except as hereinafter provided, every dwelling hereafter erected, enlarged, relocated, reconstructed, or structurally altered shall be located upon lots containing the following areas.

(1) Where the structure contains not more than two (2) families, the lot area per family shall be the same as in the "R-4" Four-Family Districts.

(2) A lot on which there is erected a multiple dwelling, hotel, or an apartment hotel shall contain an area of not less than seven hundred fifty (750) square feet per family, except that this regulation shall not apply to dormitories, fraternities, sororities, hotels, or apartment hotels where no cooking is done in individual rooms or apartments.

(3) Where a lot has less area than herein required and was of record at the time of the effective date of this ordinance, that lot may be used for single-family dwelling purposes or for the other non-dwelling uses permitted in this Section.

#### **Sec. 47.8. "C-1" Neighborhood Shopping District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance, when referred to in this Section, are the district regulations of the "C-1" Neighborhood Shopping Districts.

2. *Use Regulations*: A building or premises shall be used only for the following purposes:

a. Any use permitted in the "R-5" Multiple Dwelling Districts.

b. Amusement place or theatre, except open-air drive-in theatre; provided, however, that no theatre shall be erected or reconstructed unless there is provided on the same lot, or within three hundred (300') feet thereof within this district, a space for off-street parking which contains an area adequate

to accommodate one (1) automobile for every five (5) seats in the theatre.

c. Bank.

d. Bakery employing not more than five (5) persons when products are sold only at retail on the premises.

e. Barber shop, beauty parlor, chiropody, massage, or similar personal service shop.

f. Bicycle sales and repair shop.

g. Business or commercial schools or dancing or music academies.

h. Catering and delicatessen business.

i. Custom dressmaking, millinery, tailoring, or similar retail trade, employing not more than five (5) persons on the premises.

j. Filling stations.

k. Garage, public, except that the repair or storage portion of such building shall occupy not more than fifty (50%) percent of the total floor area, and no lot or portion thereof shall be used for the display of used cars.

l. Garage, storage.

m. Laundromats.

n. Locksmith shop.

o. Dental clinic.

p. Messenger and telegraph service station.

q. Offices.

r. Parking space and lots for the parking of automobiles.

s. Photographer's studio.

t. Receiving store for wet, dry, or steam cleaning, which cleaning shall be done elsewhere.

u. Restaurant.

v. Shoe repairing shop, employing not more than five (5) persons.

w. Shop for the repair of electrical and radio equipment

and other similar commodities employing not more than five (5) persons on the premises and not involving the conduct of any manufacturing on the premises.

x. Store or shop for the conduct of a retail business.

y. Undertaking establishment; provided, however, that no undertaking establishment shall be erected or reconstructed unless there is provided on the same lot, or within three hundred (300') feet thereof within this district, a space for off-street parking which contains an area adequate to accommodate one (1) car for every one hundred (100) square feet of floor space in the chapel or parlor.

z. Accessory buildings and uses customarily incident to the above listed uses, including a sign or a bulletin board relating only to services, articles, and products offered within the building to which the sign is attached.

Any building used primarily for any of the above enumerated purposes may have not more than twenty-five (25%) percent of the floor area devoted to storage purposes incidental to such primary use.

### 3. *Parking and Loading Regulations:*

a. The parking regulations for dwellings, schools, institutions, and similar uses are the same as those in the "R-5" Multiple Dwelling District.

b. Where any building is erected, reconstructed, or converted for any of the business purposes permitted in this Section, there shall be provided parking spaces in the ratio of not less than one (1) parking space for each ~~three hundred (300)~~ square feet of floor space in the building which is used for commercial purposes, except that any recreation or amusement building or any restaurant or establishment whose primary use is to serve meals, lunches, or drinks to patrons, either in its cars or in the building, shall provide parking spaces on the lot in the ratio of not less than one (1) parking space for each one hundred (100) square feet of floor space in the building. Such parking space may be located on the same lot as the

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building or on an area within this district and within three hundred (300') feet of the building, and such parking space may be located within the required front yard. Two (2) or more owners of buildings may join together in providing this parking space.

c. Any building hereafter erected or converted for any of the commercial uses permitted in this district shall provide one (1) space, with minimum dimensions of ten (10') feet by twenty-five (25') feet and a minimum height clearance of fourteen (14') feet, for the loading or unloading of trucks, either within the building or upon the lot for every building containing ten thousand (10,000) square feet or less. One additional loading space shall be provided for each additional ten thousand (10,000) square feet of gross floor area or fraction thereof.

4. *Height Regulations:* No building shall exceed two and one-half (2½) stories nor shall it exceed thirty-five (35') feet in height.

5. *Area Regulations:*

a. *Side Yard:* The side yard regulations for dwellings are the same as those in the "R-4" Four-Family Districts. In all other cases a side yard is not required except on the side of a lot abutting on a dwelling district, in which case there shall be a side yard of not less than five (5') feet.

b. *Lot Area Per Family:* When a lot is improved with a single-family dwelling, two-family dwelling, or a multiple dwelling, or when living facilities are erected above other uses, the lot area per family regulations are the same as those required in the "R-4" Four-Family District.

**Sec. 47.9. "C-2" Commercial District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance when referred to in this Section, are the district regulations in the "C-2" Commercial Districts.

2. *Use Regulations:* A building or premises shall be used only for the following purposes:

a. Any use permitted in the "C-1" Neighborhood Shopping District.

b. Dyeing and cleaning works employing not more than ten (10) persons on the premises (exclusive of owners or drivers or employees who spend the greater part of their time outside rather than on the premises) and using a cleaning fluid whose base is of a material other than petroleum or one of its derivatives.

c. Hospital or clinic for animals, but no open kennels shall be maintained on premises.

d. Laundries employing not more than ten (10) persons on the premises (exclusive of owners or drivers or employees who spend the greater part of their time outside rather than on the premises).

e. Plumbing shop employing not more than ten (10) persons on the premises.

f. Printing shop employing not more than ten (10) persons on the premises.

g. Public garage and automobile sales room.

h. Tinsmithing shop employing not more than ten (10) persons on the premises.

i. Used car sales or storage lots.

j. Radio broadcasting and telecasting stations, studios, and offices.

k. Milk distributing station, but not involving any bottling on the premises.

l. General service and repair establishments similar in character to those enumerated in this Section but employing not more than ten (10) persons on the premises.

m. Small wholesale establishments employing not more than five (5) persons on the premises (exclusive of owners or drivers or employees who spend a great deal of their time outside of rather than on the premises) and whose operations would not be objectionable to nearby property by reasons of

noise, odors, fumes, dust, smoke, or activities carried on after usual business hours, shall be permitted.

3. *Parking and Loading Regulations:*

a. The parking regulations for dwellings, schools, institutions, and similar uses are the same as those in the "R-5" Multiple Dwelling District.

b. The parking regulations for business uses are the same as those in the "C-1" Neighborhood Shopping District.

c. Whenever any building is erected, reconstructed, or converted for a laundry, printing, or plumbing shop or for similar service establishments permitted in this district, there shall be provided parking space at a ratio of not less than one (1) parking space for each two thousand (2,000) square feet of floor space in the building.

d. Any building hereafter erected or converted for any of the commercial or service uses permitted in this district shall provide one (1) space, with minimum dimensions of ten (10') by twenty-five (25') feet, with a minimum height of fourteen (14') feet, for the loading and unloading of trucks, either within the building or upon the lot for every building containing ten thousand (10,000) square feet or less. One (1) additional loading space shall be provided for each additional ten thousand (10,000) square feet of gross floor area or fraction thereof.

4. *Height Regulations:* No building shall exceed three (3) stories nor shall it exceed fifty (50') feet in height, except as hereinafter provided.

5. *Area Regulations:*

a. *Front Yard:* No front yard is required except where the frontage on one side of a street between two intersecting streets is partly in the "C-2" Commercial District and partly in a dwelling district, in which event the front yard regulations of the dwelling district shall apply.

b. *Side Yard:* The side yard regulations for dwelling uses are the same as those in the "R-4" Four-Family District. In all

other cases a side yard is not required except on the side of a lot abutting on a dwelling district in which case there shall be a side yard of not less than five (5') feet.

c. *Rear Yard*: The rear yard regulations for dwellings are the same as in the "R-5" Multiple Dwelling Districts. In all other cases a rear yard is not required except where a lot abuts upon a dwelling district, in which case there shall be a rear yard of not less than fifteen (15') feet.

d. *Lot Area Per Family*: When a lot is improved with a single-family dwelling, two-family dwelling, or a multiple dwelling, the lot area per family regulations are the same as those required in the "R-5" Multiple Dwelling Districts.

#### **Sec. 47.10. "C-3" Central Business District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance, when referred to in this Article, are the district regulations of the "C-3" Central Business District.

2. *Use Regulations*: A building or premises shall be used only for the following purposes:

- a. Any use permitted in the "C-2" Commercial District.
- b. Bakeries.
- c. Bottling Works.
- d. Contractors storage yard.
- e. Dyeing and cleaning establishments.
- f. Laundry.
- g. Lumber yard.
- h. Milk distributing station.
- i. Printing plants.
- j. Plumbing shop.
- k. Warehouse and storage plants.
- l. Wholesale establishments.
- m. Public utility substations and facilities.
- n. Industrial and manufacturing plants where the scale of

operations and the process of manufacturing or treatment of materials is such that the amount of dust, odor, gas, smoke, or noise resulting therefrom will not result in a lowering of taxable values of property and otherwise will not be objectionable to surrounding residence districts and where the operations are conducted in one or more buildings and not more than ten (10%) percent of the lot or tract is used for the open storage of products, materials, or equipment.

3. *Loading Regulations:* Any building hereafter erected or converted for any of the commercial or industrial uses permitted in this district shall provide one space, with minimum dimensions of ten (10') by twenty-five (25') feet, with a minimum height of fourteen (14') feet, for the loading or unloading of trucks, either within the building or upon the lot, for every building containing ten thousand (10,000) square feet or less. One (1) additional loading space shall be provided for each additional ten thousand (10,000) square feet of gross floor area or fraction thereof.

4. *Height Regulations:* No building shall exceed a height at the street line of eight (8) stories or one hundred (100') feet, but, above the height permitted at the street line, three (3') feet may be added to the height of the building for each one (1') foot that the building or portion thereof is set back from all sides of the lot, except that the cubical contents of such buildings shall not exceed the cubical contents of a prism having a base equal to the area of the lot and a height equal to two (2) times the width of the street; provided, however, that a tower with a base not to exceed twenty (20%) percent of the lot area not to have any side greater than sixty (60') feet nor to have any wall closer than twenty (20') feet to any lot line, may be constructed without reference to the above limitations.

5. *Area Regulations:*

a. *Front Yard:* No front yard is required for any building in the "C-3" Central Business District.

b. *Side Yard*: The side yard regulations for dwellings are the same as those in the "R-4" Four-Family Districts. In all other cases a side yard is not required.

c. *Rear Yard*: The rear yard regulations for dwellings are the same as those in the "R-4" Four-Family Districts. In all other cases a rear yard is not required.

d. *Lot Area Per Family*: The lot area per family regulations are the same as those in the "R-5" Multiple Dwelling Districts.

#### **Sec. 47.11. "M-1" Light Industrial District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance, when referred to in this Section, are the district regulations in the "M-1" Light Industrial Districts.

2. *Use Regulations*: A building or premises shall be used only for the following purposes:

a. Any use permitted in the "C-3" Commercial District.

b. Blacksmith Shop.

c. Wood and coal yards.

d. Junk yards, but only when the area of such lot or tract devoted to such use is covered by a building in conformity with the Building Code requirements of the City of West Palm Beach.

3. *Height Regulations*: No building shall exceed three (3) stories or shall it exceed fifty (50') feet in height, unless it is set back one (1') foot from all required yard lines for each foot of additional height above fifty (50') feet.

4. *Parking and Loading Regulations*:

a. The parking regulations for uses permitted in the "C-2" Commercial District shall apply to such uses when located in the "M-1" Light Industrial District. Parking space shall be provided on the lot or in a building on the lot adequate to accommodate the cars of the employees of any of the other uses

permitted in this district, as well as the trucks and other vehicles owned by or in the custody of the establishments.

b. Any building hereafter erected or converted for any of the commercial or industrial uses permitted in this district shall provide one space, with minimum dimensions of ten (10') by twenty-five (25') feet with a minimum height of fourteen (14') feet for the loading or unloading of trucks, either within the building or upon the lot, for every building containing ten thousand (10,000) square feet or less. One (1) additional loading space shall be provided for each additional ten thousand (10,000) square feet of gross floor area or fraction thereof.

#### 5. *Area Regulations:*

a. *Front Yard:* Where all the frontage on one side of the street between two intersecting streets is located in the "M-1" Light Industrial District, no front yard shall be required. Where the frontage on one side of the street between two intersecting streets is located partly in the "M-1" Light Industrial District and a dwelling or any business district, the front yard requirements of the dwelling or business district shall apply to the "M-1" Light Industrial District.

b. *Side Yard:* The side yard regulations for dwellings are the same as in the "R-4" Four-Family District. In all other cases, a side yard is not required except on the side of a lot abutting on a dwelling district, in which case there shall be a side yard of not less than five (5') feet.

c. *Rear Yard:* The rear yard requirements for dwellings are the same as in the "R-4" Four-Family District. In all other cases, a rear yard is not required except on a lot abutting on a dwelling district, in which case there shall be a rear yard of not less than fifteen (15') feet in depth.

#### **Sec. 47.12. "M-2" Industrial District Regulations.**

1. The regulations set forth in this Section, or set forth elsewhere in this ordinance, when referred to in this Section, are the district regulations in the "M-2" Industrial Districts.



2. *Use Regulations:* A building or premises may be used for any except the following purposes:

- a. Acid manufacture.
- b. Arsenal.
- c. Blast furnace.
- d. Boiler works.
- e. Cement, lime, gypsum, or plaster of paris manufacture.
- f. Coke ovens.
- g. Creosote treatment or manufacture.
- h. Distillation of bones, coal, or wood.
- i. Fat rendering.
- j. Fertilizer manufacture.
- k. Fireworks or explosive manufacture or storage.
- l. Garbage, offal, or dead animals, reduction or dumping, except garbage incinerators operated by the City of West Palm Beach.
- m. Glue, size, or gelatine manufacture.
- n. Paper and pulp manufacture.
- o. Petroleum products, refining thereof.
- p. Potash works.
- q. Smelting of tin, copper, zinc, or iron ores in large quantities.
- r. Stock yards or slaughter of animals.
- s. Tallow, grease, or lard manufacture or refining from animal fat.
- t. Tanning, curing, or storage of raw hides or skins.
- u. Tar distillation or manufacture.
- v. And, in general, any similar uses which may be obnoxious or offensive by reason of emission of large quantities of odor, dust, smoke, gas, or noise or vibration.

3. *Height Regulations:* No building shall exceed eight (8) stories or one hundred (100') feet in height, except that,

whenever any building in the "M-2" Industrial District adjoins or abuts upon a dwelling or residence district, it shall not exceed three (3) stories nor shall it exceed forty-five (45') feet in height, unless it is set back one (1') foot from all required yard lines for each foot of additional height above forty-five (45') feet.

#### 4. *Parking and Loading Regulations:*

a. Parking space shall be provided on the lot or in a building on the lot adequate to accommodate the cars of the employees of any of the uses permitted in this district, as well as the trucks and other vehicles owned by or in the custody of the establishment.

b. Any building hereafter erected or converted for any of the commercial or industrial uses permitted in this district shall provide one (1) space, with minimum dimensions of ten (10') by twenty-five (25') feet, for the loading or unloading of trucks, either within the building or upon the lot, for every building containing ten thousand (10,000) square feet or less. One (1) additional loading space shall be provided for each additional ten thousand (10,000) square feet of gross floor area or fraction thereof.

#### 5. *Area Regulations:*

a. *Front Yard:* Where all the frontage on one side of the street between two intersecting streets is located in the "M-2" Industrial District, no front yard shall be required. Where the frontage on one side of the street between two intersecting streets is located partly in the "M-2" Industrial District and a dwelling or a neighborhood shopping district, the front yard requirements of the dwelling or neighborhood shopping district shall apply to the "M-2" Industrial District.

b. *Side Yard:* The side yard regulations for dwellings are the same as in the "R-5" Multiple Dwelling District. In all other cases a side yard is not required except on the side of a lot abutting on a dwelling district, in which case there shall be a side yard of not less than five (5') feet.

c. *Rear Yard*: The rear yard requirements for dwellings are the same as in the "R-5" Multiple Dwelling Districts. In all other cases a rear yard is not required except on a lot abutting on a dwelling district, in which case there shall be a rear yard of not less than fifteen (15') feet in depth.

d. *Lot Area Per Family*: The lot area per family regulations for dwellings are the same as those in the "R-5" Multiple Dwelling Districts.

### **Sec. 47.13. "W" Conservation District Regulations.**

1. The regulations set forth in this Section or set forth elsewhere in this ordinance, when referred to in this Section, are the district regulations in the "W" Conservation District.

2. *Use Regulations*: A building or premises shall be used only for the following purposes:

a. Farming, including the usual farm buildings and structures.

b. Truck and flower gardening, nurseries, and greenhouses.

c. Single-family dwellings.

d. Public and private forests and wildlife reservations or similar conservation projects.

e. Public parks.

f. Golf courses except miniature courses and practice driving tees.

g. Gun and rifle clubs.

h. Roadside stands offering for sale only farm or truck garden products which are produced on the premises.

i. Riding stables and open kennels.

j. Institutions of an educational, religious, eleemosynary, philanthropic, or similar nature.

k. Removal of muck or topsoil and growing of grass.

l. Accessory buildings and uses customarily incidental to any of the above uses, including home occupations and professional offices of one who lives in the main building.

3. *Height Regulations:* No building shall exceed two and one-half ( $2\frac{1}{2}$ ) stories or thirty-five (35') feet in height, except as hereinafter provided.

4. *Area Regulations:*

a. *Yards:* No building shall be erected within thirty (30') feet of any property line or street line; provided, however, that temporary roadside stands may be located within the front yard.

b. *Lot Area Per Family:* Every lot or tract of land upon which a single-family dwelling is erected shall have an area of not less than one (1) acre, except that if a lot or tract has less area than herein required and was of record on the effective date of this ordinance, that lot may be used for single-family dwelling purposes.

**Sec. 47.14. Non-Conforming Uses.**

1. A non-conforming use of a building or portion thereof or land, which use existed lawfully at the time of the adoption or subsequent amendment of this ordinance, may be continued or changed subject to the following regulations:

a. No building, which has been damaged by fire, explosions, act of God, or the public enemy to the extent of more than sixty (60%) percent of the reproduction value of the building immediately prior to damage, shall be restored except in conformity with the regulations in this ordinance.

b. No building or portion thereof or land used in whole or in part for non-conforming purposes according to the provisions of this ordinance, which hereafter becomes and remains vacant for a continuous period of two (2) calendar years, shall again be used except in conformity with the regulations of the district in which such building or land is situated.

c. A non-conforming use of a building or land shall not be extended or enlarged except when required to do so by law or ordinance, except one addition up to ten (10%) percent increase in size may be made.

d. A non-conforming structure that was erected, converted, or structurally altered in violation of the provisions of the ordinance which this ordinance amends shall not be validated by the adoption of this ordinance, and such violations or any violations of the ordinance may be ordered removed or corrected by the proper officials at any time.

e. The otherwise lawful use of land for open storage uses, temporary storage sheds, equipment shelters, and other man-made devices such as advertising signs and billboards, which does not conform to the provisions of this ordinance, shall be discontinued within five (5) years from the date of adoption of this ordinance. Trailer camps and structures used for the operation of same which do not conform to the provisions of this ordinance shall be discontinued within ten (10) years after the adoption of this ordinance; provided, further, that in case of proven hardship, the Zoning Board of Appeals shall have power to extend the time of termination above set forth upon application made and heard as provided in Sec. 44.23 of this Chapter, or such Board shall have power to grant a special exception authorizing the extension of such termination date. With regard to the uses of land mentioned in this paragraph lettered "e" which, by reason of subsequent changes in this ordinance become non-conforming, the same shall be discontinued within five (5) years from the date of such change.

f. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

#### **Sec. 47.15. Exceptions and Modifications.**

1. The regulations hereinafter set forth in this Section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance.

2. *Exceptions and Modifications of Height Limitations:*

a. The height limitations of this ordinance shall not apply to:

Church Spires	Ornamental Towers and Spires
Belfries	Radio or Television Antenna or
Monuments	Aerials
Tanks	Chimneys
Water Towers	Elevator Bulkheads
Fire Towers	Smoke Stacks
Stage Towers or Scenery	Oil Derricks
Lofts	Conveyors
Cooling Towers	Flag Poles

b. Public, semi-public, or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding sixty (60') feet, and churches and temples may be erected to a height not exceeding seventy-five (75') feet when the required front, side, and rear yards are each increased by at least one (1') foot for each one (1') foot of additional building height above the height limit otherwise provided in the district in which the building is located.

c. Buildings that are to be used for storage purposes only may exceed the maximum number of stories that are permitted in the district in which they are located, but such buildings shall not exceed the number of feet of building height permitted in such district.

### 3. *Exceptions and Modifications of Yard and Open Space Requirements.*

a. Where dwelling units are erected above commercial and industrial structures in commercial and industrial districts, no side yards are required except such side yard as may be required in the district regulations for a commercial or industrial building on the side of a lot abutting on a dwelling district. Where a side yard is provided but not required, such yard shall be not less than three (3') feet in width.

b. More than one (1) main institutional, public, or semi-

public, commercial or industrial building may be located upon a lot or tract, provided no such building or portion thereof is located outside the buildable area of the lot.

c. For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one (1) building occupying one (1) lot.

d. Whenever a lot abuts upon an alley, one-half (1/2) of the alley width may be considered as a portion of the required rear yard.

e. Every part of a required yard shall be open to the sky except where accessory buildings are permitted in a rear or side yard and except for the ordinary projections of sills, belt courses, cornices, and ornamental features projecting not to exceed eighteen (18") inches. It is further provided that parking spaces may be provided in the required side and rear yards of any districts but shall not be permitted within the required minimum front yards of any residential districts, except as hereinabove provided.

A porte-cochere or canopy may project into a required side yard, provided every part of such porte-cochere or canopy is unenclosed and is removed at least five (5') feet from the nearest side lot line. Awnings and shutters attached to and supported entirely by the house, without posts, covering doors, and windows, are excepted from this side yard provision.

f. An open, paved terrace at ground level may project into a required front yard for a distance of not exceeding ten (10') feet, but this shall not be interpreted to include or permit fixed canopies.

g. Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the Building Inspector for a distance of not more than five (5') feet but only where the same are so placed as not to obstruct light and ventilation.

h. Temporary roadside stands in the "W" Conservation District may be located within the front yard.



i. Corner lots having a 50' or less frontage on the narrow end, which narrow ends are located back to back, a ten (10) foot set-back line on the side street is allowed.

j (a) That all swimming pools, wading pools, or bathing pools (excepting small portable plastic or rubber wading pools) be and the same are hereby designated as structures which must comply with all zoning, building and plumbing and electrical requirements, including the zoning, building, plumbing, electrical and sanitary code requirements of the City of West Palm Beach, as well as all State Laws applicable thereto.

(b) That as such, all set-back requirements shall be complied with, but in no event shall the set-back for swimming pools and similar structures designated above, be less than six (6) feet from the property lines.

(c) That all swimming pools and structures as designated above shall be protected by either an enclosure or a fence or wall at least four feet high surrounding the same, or by a suitable plastic or rubber or similar cover to be approved by the building inspector of the City of West Palm Beach, Florida.

(d) That all plans and specifications for swimming pools or similar structures as designated above shall be approved in writing by a registered Engineer, or by a registered Architect of the State of Florida, and the same shall comply with all requirements of the City of West Palm Beach, Florida, and of the State of Florida.

(e) That all swimming pools and structures as designated above shall fully comply with and meet the requirements of the State Board of Health, and of the Sanitary Code.

(f) That disposal of all water used in swimming pools or structures as designated above shall be approved by the Engineering Department of the City of West Palm Beach, Florida. That disposal of water or drainage therefrom from swimming pools or structures as designated above shall not be discharged into city sewers at any time.

(g) That swimming pools and similar structures as designated above which are located in residential areas shall be deemed an accessory use under the Zoning Code of the City of West Palm Beach, as amended and shall comply therewith.

4. *Exceptions and Modification to Use Regulations:*

a. Existing railroads and utilities may continue to be operated and maintained in dwelling and commercial districts, but no new railroad or utility structure other than the usual poles, wires, and underground utilities shall be established in such districts except when so authorized by the Zoning Board of Appeals.

b. On any corner lot on which a front yard is required by this ordinance, no wall, fence, or other structure shall be erected, and no hedge, tree, shrub, wall, or other growth shall be maintained on such location within such required front yard space as to cause danger to traffic by obscuring the view. All walls, fences, and hedges on other than corner lots shall be limited to a height of five (5) feet. <sup>but the height of 5 ft shall be</sup> All easements shall be left free and clear without hedges, fences, or walls.

c. Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.

d. The Building Inspector shall permit and a license shall be issued by the Tax Collector for the renting of not more than three (3) rooms for roomers or tourists in the "R-2" Single-Family Districts and "R-3" Two-Family Districts for a period not to exceed a total of seven (7) months, which period shall extend from November 1st of one calendar year; provided, however, that no sign shall be displayed upon the premises indicating that such rooms are available nor shall any meals be served to persons renting the rooms. No such permit shall be issued until a regular rooming or hotel license therefor has been issued, nor shall any such permit be issued unless one

applicable to residential districts only. Ord 542

(1) off-street parking space is available for each room that is to be rented. Such off-street parking space shall be in addition to the parking space required for the single-family dwelling.

5. *Regulation of Accessory Buildings:*

a. Any accessory building that is not a part of the main building shall be located not less than sixty (60') feet from the front lot line.

b. Accessory buildings, including a garage apartment, may be built in required rear yards, but such accessory buildings shall not occupy more than forty (40%) percent of the required rear yard. No accessory building shall, however, be nearer than five (5') feet to any lot line.

c. Accessory building erected in a required rear yard shall not exceed twenty (20') feet in height.

6. *Community Unit Plan:* An authorized agency of the Municipal, County, State, or Federal Government or the owner or owners of any tract of land comprising an area of not less than ten (10) acres may submit to the City Commission of the City of West Palm Beach a plan for the use and development of all of the tract of land for residential and allied purposes. The development plan shall be referred to the City Planning Board for study and report and for public hearings. Notice and publication of such public hearings shall conform to the procedure prescribed in Sec. 44.22 for hearings on changes and amendments. If the Board approves the plans, they shall then be submitted to the City Commission for consideration and action. The approval and recommendations of the Commission shall be accompanied by a report stating the reasons for approval of the application and specific evidence and facts showing that the proposed community unit plan meets with the following conditions:

a. The property adjacent to the area included in the plan will not be adversely affected.

b. The plan is consistent with the intent and purposes of this ordinance to promote public health, safety, morals, and general welfare.

c. That the buildings shall be used only for single-family dwellings, two-family dwellings, or multiple dwellings, and the usual accessory uses, such as private or storage garages, storage space, and for community activities, including churches.

d. That the average lot area per family contained in the site, exclusive of the area occupied by streets, will not be less than the lot area per family required in the district in which the development is located.

If the City Commission approves the plans, building permits and certificates of occupancy may be issued even though the use of the land and location and height of buildings to be erected in the area and the yards and open space contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located.

#### **Sec. 47.16. Building Setback Lines.**

1. There is on file with the Clerk of the City an annex to the District Map referred to in Sec. ~~44.2~~<sup>47.2</sup> of the ordinance, which such annex is hereby made a part of this ordinance by reference. Such annex is designated as "Major Street Plan System." Thereon is delineated graphically the "approved center line" of certain arterial highways of the City, certain congested business streets in the old section of the City, and other streets and ways forming a part of the major street system and which annex evidences the approved city planning for the streets shown thereon as approved by the City Commission on February 9, 1953. Such "approved center lines" are hereby ratified and confirmed.

2. With reference to the public thoroughfares shown upon such annex and which are hereafter listed, there are hereby established building set-back lines of the following distances from such approved center lines, viz.:

<i>Street</i>	<i>Terminals</i>	<i>Distance from Approved Center Line</i>
Georgia Ave.	From Forest Hill Boulevard to Okeechobee Road	30 ft. Easterly and Westerly
Rosemary Ave.	From Okeechobee Road to Seventh Street	30 ft. Easterly and Westerly
Parker Ave.	From Forest Hill Boulevard to Park St.	40 ft. Easterly and Westerly
Tamarind Ave.	From Okeechobee Road to 23rd St.	40 ft. Easterly and Westerly
Forest Hill Boulevard	Whole Length	40 ft. Northerly and Southerly
Palmetto St.	Whole Length	30 ft. Northerly and Southerly
Lakewood Road	Whole Length	30 ft. Northerly and Southerly
Pershing Way	From Olive Ave. to Flagler Drive	30 ft. Northerly and Southerly
Park St.	Whole Length	30 ft. Northerly and Southerly
Australian Ave.	Whole Length	40 ft. Easterly and Westerly
Loftin St.	Whole Length	60 ft. Northerly and Southerly
15th St.	From North Poinsettia Ave. to Seaboard Air Line Railroad	40 ft. Northerly and Southerly
23rd St.	From Flagler Drive to Tamarind Ave.	40 ft. Northerly and Southerly
23rd St.	From Tamarind Ave. to Seaboard Air Line Railroad	30 ft. Northerly and Southerly

<i>Street</i>	<i>Terminals</i>	<i>Distance from Approved Center Line</i>
Broadway	Whole Length	40 ft. Easterly and Westerly
Greenwood Ave.	From 36th St. to 45th St.	30 ft. Easterly and Westerly
Greenwood Ave.	From 45th St. to North City Limits	40 ft. Easterly and Westerly
54th St.	From Flagler Drive to Broadway	40 ft. Northerly and Southerly
54th St.	From Broadway to West City Limits	30 ft. Northerly and Southerly
First St.	From Tamarind Ave. to Poinsettia Ave.	30 ft. Northerly and Southerly
First St.	From Poinsettia Ave. to Narcissus Ave.	27 ft. Northerly and Southerly
Clematis St.	From Sapodilla to Tamarind Ave.	40 ft. Northerly and Southerly
Clematis St.	From Sapodilla Ave. to Narcissus Ave.	33 ft. Northerly and Southerly
Datura St.	From Poinsettia Ave. to Tamarind Ave.	30 ft. Northerly and Southerly
Datura St.	From Poinsettia Ave. to Narcissus Ave.	33 ft. Northerly and Southerly
Evernia St.	From Olive Ave. to Tamarind Ave.	30 ft. Northerly and Southerly
Evernia St.	From Olive Ave. to Flagler Drive	33 ft. Northerly and Southerly
Fern St.	From Olive Ave. to Tamarind Ave.	40 ft. Northerly and Southerly

<i>Street</i>	<i>Terminals</i>	<i>Distance from Approved Center Line</i>
Fern St.	From Olive Ave. to Flagler Drive	30 ft. Northerly and Southerly
Tanglewood Court	From Poinsettia Ave. to Flagler Drive	15 ft. Northerly and Southerly
Trinity Place	From Poinsettia Ave. to Flagler Drive	20 ft. Northerly and Southerly
Chase Ave.	From Okeechobee Road to Flagler Drive	30 ft. Easterly and Westerly
Lakeview Ave.	From Poinsettia Ave. to Flagler Drive	30 ft. Northerly and Southerly
Southern Boulevard	On west by West City Limits and on east by waters of Lake Worth	40 ft. Northerly and Southerly
Belvedere Road	On west by West City Limits and on east by Olive Ave.	40 ft. Northerly and Southerly
Okeechobee Road	On west by West City Limits and on east by Waters of Lake Worth	40 ft. Northerly and Southerly
Poinsettia Ave.	From Datura St. to Hibiscus St.	30 ft. Easterly and Westerly
Olive Ave.	From Twelfth St. to South City Limits	30 ft. Easterly and Westerly
Olive Ave.	Excepting at Clematis St., on the west side of Olive Ave. at the north end of the former Atlantic National Bank Bldg., 23.9', thence along the present bank building east line to rear of said building, where the setback shall be 22.85', thence from the rear of said bank building to the alley south thereof, where the setback line shall be 25.2'.	



<i>Street</i>	<i>Terminals</i>	<i>Distance from Approved Center Line</i>
Poinsettia Ave.	From Hibiscus St. to Belvedere Road	37 ft. Easterly and Westerly
Poinsettia Ave.	From Belvedere Road to South City Limits	40 ft. Easterly and Westerly
Poinsettia Ave.	From First St. to Datura St.	28 ft. Easterly and Westerly
Poinsettia Ave.	From First St. to North City Limits	40 ft. Easterly and Westerly
Flagler Drive	From E. line of Chase St. to E. line of Lot 1-A Revised Plat, Phillips Point Addition	70 ft. Southerly of existing bulkhead
Flagler Drive	From 36th St. to 26th St.	55 ft. Easterly and Westerly
Flagler Drive	From Butler St. to N. line of Gruber Carlberg Addition	40 ft. Easterly and Westerly
Flagler Drive	From N. line of Gruber Carlberg Addition to S. line of Brelsford Park Addition	45 ft. Easterly and Westerly
Flagler Drive	From S. line of Brelsford Park Addition to Loftin St.	40 ft. Easterly and Westerly
Flagler Drive	From Second St. to Datura St.	50 ft. Easterly and 30 ft. Westerly
Flagler Drive	From Fern St. to intersection of Chase St.	80 ft. Westerly from existing bulkhead

<i>Street</i>	<i>Terminals</i>	<i>Distance from Approved Center Line</i>
Flagler Drive	From N. line of Lot 1-A, Revised Plat, Phillips Point Addition, to south right-of-way line of Okeechobee Road	80 ft. Westerly from existing bulkhead
Flagler Drive	From S. line of Okeechobee Road right of way to N. line of El Cid Subdivision	50 ft. Westerly from west right of way line of Flagler Drive
Flagler Drive	From N. line of El Cid Subdivision to South City limits.	25 ft. Westerly from west right-of-way line of Flagler Drive, or, in those cases where such Drive has not been duly deeded or dedicated, 80 ft. Westerly from existing bulkhead or, where none exists, from Government bulkhead line as it now exists.

3. It shall be unlawful for any person to erect or construct or to cause the erection or construction of any building or structure, or parts thereof, between the approved center line of the streets or highways described in paragraph 2. of this Section and the building setback lines in such paragraph 2. of this Section provided. It shall also be unlawful for any person to alter, remodel, reconstruct, or add to that portion of any building or structure now located between such building set-

back line and the approved center line to which such building setback line appertains if, in altering, remodeling, reconstructing, or adding to such building or structure, it shall become necessary, or if the owner or any other person applying for the building permit shall desire, to make major repairs to that portion of the exterior wall or walls of the building or structure upon that portion of the property located between such building setback line and such approved center line.

4. "Major repairs", as that term is used in paragraph 3. of this Section, shall be deemed to be one repair job only involved, when such repairs involve alterations, additions, changes, or work upon the exterior wall or walls (including windows or other openings) of the building facing the setback line, and when the total cost of such repairs, including all labor and materials, as determined by the Building Inspector, on said one repair job only is equal or exceeds ten (10%) percent of the last city assessed valuation of the building (not including land) in question. In all cases of razing or demolition of such exterior walls, major repairs shall be likewise deemed to be involved without regard to the cost of such razing or demolition.

5. The Building Inspector of the City shall refuse to issue any building permit for the erection, construction, remodeling, or altering of any building or structure, or any part of same, unless and until the plans and specifications therefor shall conform to and comply with the terms, conditions, and provisions of this Section.

6. Whenever the setback provisions of this Section are at variance with any other provision of this Chapter, the provision requiring the greater setback shall govern.

#### **Sec. 47.17. Occupancy Permits.**

1. Subsequent to the effective date of this ordinance, no change in the use or occupancy of land, nor any change of use or occupancy in an existing building, shall be made, nor shall any new building be occupied for any purpose until a valid certificate of approval and occupancy has been issued by the

Building Inspector. Every occupancy permit shall state that the new occupancy complies with all provisions of this ordinance and all other applicable laws and regulations.

2. No permit for excavation for, or the erection or alteration of, any building shall be issued before an application has been made for and tentative approval given for an occupancy permit, and no building or premises shall be occupied until such occupancy permit in final form is issued by the Building Inspector.

3. A record of all occupancy permits shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or in a building affected by such occupancy permit.

4. No occupational license shall be issued by the City Tax Collector unless there be in existence a valid occupancy permit as to the premises in which such occupation is to be carried on duly authorizing such use and occupancy.

#### **Sec. 47.18. Plats.**

1. Each application for a building permit shall be accompanied by a plat or sketch in duplicate, or duplicate prints thereof, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the buildings to be erected, the size, shape, and location of any existing buildings, and such other information as may be necessary to provide for the enforcement of this ordinance. A record of applications and plats shall be kept in the office of the Building Inspector.

#### **Sec. 47.19. Boundaries of Districts.**

1. *Rules Where Uncertainty May Arise:* Where uncertainty exists with respect to the boundaries of the various dis-

tricts as shown on the map accompanying and made a part of this ordinance, the following rules apply:

a. The district boundaries are either streets or alleys unless otherwise shown, and, where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.

b. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and, where the district boundaries shall be construed to be the lot lines and where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

c. In any unsubdivided property the district boundary lines on the District Map accompanying and made a part of this ordinance shall be determined by use of the scale appearing on the map.

#### **Sec. 47.20. Enforcement.**

1. It shall be the duty of the Building Inspector to enforce this ordinance. It shall also be the duty for all officers and employees of the city, and especially of all members of the Police Department, to assist the Building Inspector by reporting to him upon new construction, reconstruction, or land uses or upon seeming violations.

2. No permit shall be issued by the Building, Plumbing, Electrical Inspectors or other Department of the City, or any occupational License by the City Tax Collector which in any way permits or allows violations of this ordinance.

#### **Sec. 47.21. Interpretation, Purpose and Conflict.**

1. In interpreting and applying the provisions of this ordinance, they shall be held to the minimum requirements for the

promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this ordinance; or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this ordinance; nor is it intended by this ordinance to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this ordinance; or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this ordinance; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinances or agreements, the provisions of this ordinance shall control.

#### **Sec. 47.22. Changes and Amendments.**

1. The City Commission of the City of West Palm Beach may from time to time, on its own motion or on petition, after a public hearing of which at least fifteen (15) days' notice has been given in a newspaper of general circulation, amend, supplement, or change, modify, or repeal the boundaries or regulations herein or subsequently established, but only after submitting same to the City Planning Board for its recommendations and report. In case, however, the City Planning Board disapproves the change, or in case of a protest against such changes duly signed and acknowledged by the owners of twenty (20%) percent or more of the frontage proposed to be altered, or by the owner of twenty (20%) percent or more of the frontage immediately in the rear thereof and extending five

hundred (500') feet therefrom or by the owners of twenty (20%) percent of the frontage directly opposite the frontage proposed to be altered or by the owners of twenty (20%) percent of the property immediately adjacent thereto and extending five hundred (500') feet therefrom, such amendment shall not be passed except by the majority vote of all members of the City Commission.

2. Before any action shall be taken as provided in this Section, the party or parties proposing or recommending a change in the district regulations or district boundaries shall deposit with the City Treasurer the sum of Twenty (\$20.00) Dollars to cover the approximate cost of this procedure, and under no condition shall said sum or any part thereof be refunded for failure of said change to be adopted by the City Commission.

3. In the event any court of competent jurisdiction should hold that any provision of the Zoning Code of the City of West Palm Beach, or the Zoning Map made a part thereof, is unconstitutional or unenforceable as to any particular parcel of land or building within the City of West Palm Beach because the use allowed for such parcel of land or building under the Zoning Code of such city amounts to taking property without due process of law, or for any other reason, then, and in that event, such piece or parcel of land or building is hereby declared to be, and is hereby, classified under the Zoning Code of such City in the next less restricted classification.

#### **Sec. 47.23. Zoning Board of Appeals.**

1. A Zoning Board of Appeals is hereby established. The word "Board" when used in this Section shall be construed to mean the Zoning Board of Appeals. The Board shall be composed of five (5) members who shall be appointed by the City Commission and who shall serve without compensation. The present members of the Board shall be the members of the Board under this Section until the terms for which the members thereof were respectively appointed shall expire, where-



upon the City Commission shall appoint successors for a term of three (3) years, and such appointments shall be made triennially thereafter. The City Commission may also appoint an alternate member for each member of the Board, and such alternate shall act in the absence, disability, or disqualification of the member for which he was appointed an alternate. Any member or alternate member of the Board shall be subject to removal from office by the City Commission for misfeasance, malfeasance, or non-feasance in office or for disorderly or other conduct unbecoming an officer, either connected with his duties as such officer not amounting to malfeasance or misfeasance; provided, however, that such member of the Board shall not be removed except by a majority vote of the City Commission after charges shall have been preferred and served upon him and a trial had before the City Commission.

2. The Board shall elect its own chairman, vice-chairman, and secretary and shall fix and prescribe the duties of each of them. All meetings of the Board shall be held at the call of the Chairman and at such other times as the Board shall determine. The Chairman or, in his absence, the Vice-Chairman may administer oaths and compel the attendance of witnesses. Meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member present upon each question or, if absent or failing to vote, indicating such fact, and the Board shall also keep records of its examinations and other official actions. Every rule, amendment, or repeal thereof and every order, requirement, decision, or determination of the Board shall be filed in the office of the City Clerk and shall be and remain a public record.

3. Appeals may be taken to and before the Board by any person aggrieved by the decision of the Building Inspector. Such appeal shall be taken within such time as shall be prescribed by the Board by general rule or, in the absence of any rule, within a reasonable time by filing with the officer

from whom the appeal is taken a notice of appeal, and such officer shall then forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer shall certify to the Board after the notice of appeal shall have been filed with him that, by reason of facts stated in his certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board after notice to the officer from whom the appeal is taken and on due cause shown.

The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give notice to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or agent or by attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all powers of the officer from whom the appeal is taken. The concurring vote of three (3) members or alternate members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative officer or to decide in favor of the applicant any matter upon which the Board is required to pass under this Section or any other ordinance of the City.

In carrying out the powers authorized by subsequent paragraphs of this Section, the Board shall be authorized to require that the appeal or application to the Board be upon forms to be prescribed by the Board. In the case of all applications to the Board for exceptions, variances of Special Permits under the provisions of this Section, no such application shall be heard by the Board until a notice, giving the general

details of the application and the date and place at which the Board shall hear the same, shall have been published at least twice in a newspaper of general circulation published in West Palm Beach, Florida, the first publication to be at least fifteen (15) days before the hearing, and until a copy of which notice shall have been mailed to those persons owning property within two hundred (200') feet from the outside lines of the property described in the application, as such owners are listed and as their mailing addresses are listed on the records of the City Tax Assessor. The costs of such publication and of such notices and mailing shall be defrayed from a fee of Twenty (\$20.00) Dollars which must be paid by the applicant at the time of filing the application and no part of which shall be returned to the applicant. The Board shall have power to name the City official with whom such applications shall be filed.

4. The Board shall have the following powers, and it shall be its duty:

a. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the Building Inspector in the enforcement of this ordinance.

b. To grant exceptions in the following instances:

(1) Permit the extension of a district where the boundary line of a district divides a lot or tract held in single ownership and suitable only for a particular purpose at the time of passage of this ordinance.

(2) Interpret the provisions of this ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts, accompanying and made a part of this ordinance where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.

(3) Permit the erection and use of a building or the use of premises for railroads or public utility purposes.

(4) Permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy to the extent of more than sixty (60%) percent of its reproduction value as it exists prior to its damage where the Board finds some compelling necessity requiring a continuance of the non-conforming use and the primary purpose of continuing the non-conforming use is not to continue a monopoly.

(5) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

(6) Permit land within three hundred (300') feet of a multiple dwelling to be improved for the parking spaces required in connection with a multiple dwelling, but only when there is positive assurance that such land will be used for such purpose during the existence of the multiple dwelling.

(7) To determine whether an industry should be permitted within the "M-1" Light Industrial and "M-2" Industrial Districts because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.

c. The Board shall have the authority to grant the following *variations*:

(1) Permit a variation in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical, or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare.

(2) Permit a variation within the building Setback lines of Sec. 47.16, but only when such adjustments are made that

would meet the objectives of such regulations and when such variation will not merely constitute a convenience or individual advantage.

(3) Permit a variation when an owner can show that a strict application of the terms of this ordinance relating to the use, construction, or alteration of buildings or structures or the use of land will impose upon him unusual and practical difficulties or particular hardship, but not loss of money value alone, such variations of the strict application of the terms of this ordinance as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate such demonstrable and unusual hardship or difficulty so great as to warrant a variation from the comprehensive plan as established by this ordinance, and at the same time the surrounding property will be properly protected, but not to authorize spot zoning based on loss of value or revenue alone from property by changing the use permitted. All applications for such variance shall be in writing and be supported by written affidavits and proof at the time same are filed. At the hearing such additional proof shall be submitted as required, and only in a most exceptional case as to use regulations shall more than a one-grade drop in regulations be allowed. All exceptions will be granted only to the present owner of the property and shall cease upon sale or transfer of the property. The Board may establish a time limit for any exception granted if it deems such action necessary or desirable.

d. The Board may, by special permit and subject to such protective restrictions that are deemed necessary, authorize the location, extension, or structural alteration of any of the following buildings or uses, or an increase in their height, in any district from which these are prohibited or limited by this ordinance:

(1) Any public building erected or leased and used by any department of a Municipal, County, State, or Federal Government.

(2) Hospitals, clinics, and institutions, except institutions for criminals; provided, however, that such buildings may occupy not over fifty (50%) percent of the total area of the lot or tract and will not have any serious and depreciating effect upon the value of surrounding property; and, provided, further, that the buildings shall be set back from all yard lines heretofore established an additional distance of not less than one (1') foot for every foot of building height, and that adequate off-street parking space will be provided.

(3) Airport, landing field, or landing strip for aircraft.

(4) Cemetery or mausoleum; provided, however, that no grave shall be permitted within fifty (50') feet of any property line of the cemetery.

(5) Commercial greenhouses, provided that any such structures shall not be less than one hundred (100') feet from all property lines.

(6) Nursery and truck garden.

(7) Roadside stands, commercial amusement, or recreational development for temporary or seasonal periods.

(8) Extraction of sand, gravel, shell, top soil, and other natural resources.

(9) Parking lots on lands not more than three hundred (300') feet from the boundary of any shopping, commercial, or industrial district under such conditions as will protect the character of surrounding property.

(10) Drive-in Theatres in the "C-2" Commercial District or "M-1" Light Industrial District or in the "W" Conservation District.

(11) Trailer or tourist camps in the "W" Conservation District.

(12) Radio or television broadcasting tower or station.

e. In considering applications under this paragraph 4., the Board shall, before granting any such applications, first determine that such action will not unreasonably impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City. Whenever favorable action is given upon any such applications, it shall be deemed to be upon the implied condition that all requirements of this ordinance as to off-street parking and loading shall be met and maintained with respect to the structures or use in question, and no building permit shall be granted unless such implied conditions shall be complied with. In its discretion, the Board shall have power to include as conditions in any order granting applications that the right granted shall be personal to the applicant and that the same must be exercised within a certain period else will become void, or any other reasonable limitation.

f. As to any special exceptions granted by the Zoning Board of Appeals prior to January 1, 1951, as to which no construction or work has been initiated upon the effective date of this ordinance, such exceptions shall be void and of no further force and effect, and such property and the use or intensity of use thereof shall hereafter conform to the regulations of this ordinance.

g. Any person aggrieved by any decision of the Zoning Board of Appeals shall have the right to present his case in Court in the manner and time provided by law.

**Sec. 47.24. Violation and Penalty.**

1. Any person convicted violating any of the provisions of this chapter or the owner of any buildings or premises or part thereof, where anything in violation of this chapter shall be



placed, or shall exist, and any architect, engineer, builder, contractor, agent, or person employed in connection therewith who may have been found guilty of having assisted in the commission of any such violation, shall be punished as provided in Section 1.4 of this Code.

**Sec. 47.25. Validity.**

1. Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Sec. 47.26. Effective Date.**

1. This ordinance became effective on June 3, 1954. Ordinances 524-531-535.

