

ARTICLE I – GENERAL PROVISIONS

SEC. 26-1 Overview

- A. Title.** These regulations shall be referred to as the Crestwood Development Code. References to “this code,” “the development code,” or “these regulations” shall be considered a reference to the Crestwood Development Code, and references to “zoning ordinance,” “subdivision regulations,” or “sign regulations” may be interpreted as references to specific parts of the development code.
- B. Authority and Jurisdiction.** The Development Code is enacted pursuant to the authority granted in Chapter 89, RSMo, as amended, as well as other Missouri statutes, and applies to all structures and land within the incorporated area of the City of Crestwood, as depicted on the official zoning map, and other maps accompanying the City’s plans and policies. It shall be unlawful to conduct any development or use of land until any applicable development review and processes have been followed, all applicable standards have been applied, and all applicable approvals, permits, or other authorizations have been issued.
- C. Purposes.** This Development Code is adopted to promote the public safety, health, and general welfare of residents and visitors to the City of Crestwood. More specifically, the regulations have the following general purposes intended to:
1. Ensure the orderly development or redevelopment of land;
 2. Protect and conserve the value of buildings and other improvements, and minimize any adverse impact of development on adjoining or other nearby properties;
 3. Implement the Comprehensive Plan and other plans and programs authorized under the guidance of the Comprehensive Plan;
 4. Promote the health and general welfare throughout the City;
 5. Promote planning and urban design that emphasizes distinct places and unique elements of community character throughout Crestwood;
 6. Provide park, civic, and open spaces that create a desirable and pleasant living and working environment;
 7. Establish standards of design (and reference other sources of design standards and procedures) for subdivision improvements and improvements within un-subdivided developments based upon City, State, and Federal requirements to ensure safe and proper construction of new streets, utilities, drainage facilities, erosion control, and installation of street lighting;
 8. Ensure proper legal descriptions and documentation of subdivided land for the protection of both buyers and sellers of land;
 9. Ensure that lot purchasers will receive a buildable, properly oriented lot, provided with adequate facilities to meet day-to-day needs;
 10. Divide the City into zones and districts that promote the goals and objectives of the Comprehensive Plan;

11. Regulate and restrict the development and use of buildings and land within each zoning district to create a compatible scale and range of building types within districts;
12. Provide for coordinated development of Crestwood consistent with established policies of the City;
13. Designate and define the powers and duties of the officials administering and enforcing this Chapter; and
14. Establish penalties for the violation of this Chapter.

D. Severability.

1. If any court of competent and final jurisdiction declares any part of this Development Code to be invalid, that ruling shall not affect any other provisions of this Development Code not specifically included in that ruling.
2. If any court of competent and final jurisdiction declares that the application of this Development Code to a particular property or structure is invalid, that ruling shall not affect the application of the regulations to any other property or structure, or projects with different circumstances.
3. No provision of this Code shall enable any circumstance which is unlawful under superseding federal or state law. If any section, subsection, sentence, clause, phrase, or portion of this Code is now, or in the future, superseded or preempted by state or federal law, or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

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SEC. 26-2 Interpretation

A. Rules of Construction. The following rules shall apply to the application and interpretation of these regulations, unless the context clearly indicates otherwise:

1. All words shall have the customary dictionary meaning, unless specifically defined in these regulations.
2. The present tense includes the future tense and the future tense includes the present tense.
3. The singular includes the plural and the plural includes the singular.
4. Lists of examples prefaced by “including the following,” “such as,” or other similar clauses shall not be construed as exclusive or exhaustive and shall not preclude an interpretation of these lists including other similar and non-mentioned examples.
5. “Shall” or “must” is mandatory; “should” or “may” is permissive, but recommended as a way to best meet the standard or achieve the intent of the standard.
6. The words “use” or “occupy” shall include the words “intended,” “designed,” or “arranged” to be “used” or “occupied.”
7. A reference to an administrative official shall refer to that official, or his or her official designee, and all references to specific City officials may also include any other designee of the City Administrator.
8. Any reference to other official local, state, or federal government rules or regulations shall include the current versions of those regulations, provided they remain binding or are consistent with the purposes, intent, and objectives included in these regulations.
9. References to a person shall include individuals, partnerships, agencies, corporations, or other legal entities.

B. Conflicts. In case of a conflict between these regulations and any other adopted regulation of the City, the more restrictive standard shall apply. In making a determination of which standard is more restrictive the administrative official may consider which is more specific; which is more consistent with the Comprehensive Plan; which is more consistent with the purposes, intent, and objectives of these regulations; and which best promotes public health, safety, and welfare.

C. Measurements. The following rules shall apply to the interpretation of measurements and dimensional standards:

1. *General Calculations.* When calculations result in fractions it shall be rounded up to the nearest whole number if the standard is expressed as a minimum requirement, and rounded down to the nearest whole number if the standard is expressed as maximum allowance.
2. *Buildings.* The following shall be used in interpreting dimensional standards for buildings:
 - a. *Building Coverage.* The percentage of the total area of the lot covered by buildings or roofed areas of principal and accessory buildings, measured along the wall at ground level, excluding the first four feet of any unenclosed roof overhangs. Building coverage may

control the scale, mass, or orientation of the building more than is established within the setback lines. It does not include any unroofed projections, surface parking, uncovered patios, stoops, or plazas.

- b. **Building Height.** Building height, when expressed as a dimension, is measured from the average grade to highest point of a roof. Average grade is determined by calculating the average of the highest and lowest elevation of the proposed development or existing development grade along the perimeter of the building footprint. Where significant development is proposed in association with a grading plan, post development grades may be used subject to a grading plan approved with development review. Building heights expressed in both dimension and stories shall use the additional story limits to impact the scale, form, and mass of the building within the permitted overall height.
- c. **Building Setbacks.** The minimum required distance between any lot line and the building. When front building setbacks are expressed as a range (i.e. 10' to 25'), it shall be interpreted as a “build to” range, within which distance the front building line of the principal structure shall be established.



Figure 26-2-1 Building Height and Building Stories

Non-residential and residential buildings are depicting the measurement of building height from the average grade at the front building line to the top of the roof. Story heights are also illustrated demonstrating the typical story heights of stories depending on their use.

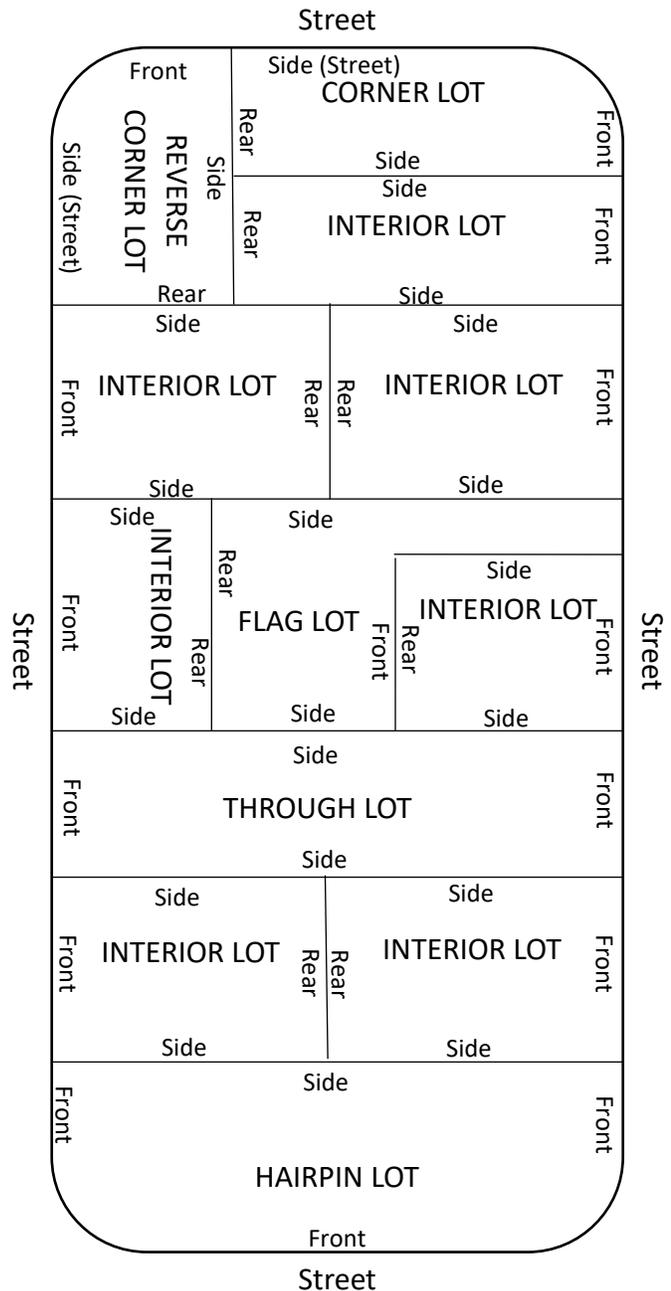
- d. **Story.** The part of a building included between the surface of one floor and the surface of the floor next above, or if there is no floor above, that part of the building which is above the surface of a floor and the ceiling next above. Story heights shall be:
- (1) Eight (8) feet to twelve (12) feet, generally;
 - (2) The first story for residential buildings should be nine (9) feet to fourteen (14) feet;
 - (3) The first story in non-residential buildings should be twelve (12) feet to twenty (20) feet;
 - (4) Any story that has less than four feet of its height exposed above finished grade on the front elevation, or which has more than fifty (50) percent of its perimeter wall area

measured from the finished floor elevation surrounded by finished grade shall not count as a story for the purpose of measuring building height.

- e. *Story, Half.* The space under a sloping roof that has a line of intersection of the roof and wall face not more than two (2) feet above the floor level and in which the possible floor area with head room of five (5) feet or more is greater than forty (40) percent of the total floor area of the story directly beneath.
3. *Lots.* The following shall be used in interpreting dimensional standards for lots:
 - a. *Lot Area.* The minimum required area of a horizontal plane bounded by the vertical planes through front, rear, and side lot lines, or when expressed as a range shall be interpreted as a minimum and a maximum.
 - b. *Lot depth.* The horizontal distance between the front and rear lot lines measured at right angles to the front right-of-way lines. Where the front and rear lines are not approximately parallel, the lot depth shall be the average when measured from at least three different points along the front lot line, including the two corners at the front lot line.
 - c. *Lot frontage.* The portion of the lot that establishes the relationship between the building, other site elements, and the public realm or street upon which the lot fronts. When expressed as a linear dimension: the horizontal distance between side lot lines, measured at the front lot line. When expressed as a percentage: the maximum percentage of that frontage width applied to the entire depth of the frontage area. Where the front lot line abuts a curved right-of-way, the lot frontage requirement may be applied at the front building line for purposes of regulating the dimensions of lots.
 - d. *Lot width.* The horizontal distance between the side lot lines, typically measured at the front lot line, but for irregular lots may be measured at the front building line.
 - e. *Corner lots.* When applying building, lot, and frontage standards to corner lots, lots can be arranged in one of three patterns based on the context of the block and abutting lots (**See Figure 26-2-2 (Corner Lot Orientation) below**):
 - (1) *Standard Corner.* The building orients to the front of all other buildings fronting on the same street, and an expanded street-side setback may apply. Side and rear setbacks apply to the remaining sides.
 - (2) *Reverse Corner.* The building orients to the end-grain of the block, and the front setback and frontage design applies to that side, and the street-side setback can be the greater of (a) the stated street-side setback for that building type or (b) ten (10) feet in front of the forward most point of the front building line of the abutting lot. Side and rear setbacks apply to the remaining sides.
 - (3) *Corner orientation.* The building orients to both streets, with the front setback and frontage design applying on both street sides. The two remaining sides are treated as side setbacks and there is no rear setback.

Figure 26-2-2 Corner Lot Orientation

Corner Lots are unique in that they are able to front on two different streets or in some cases both. The figure illustrates the different options for property owner to face their building and how this effects the setbacks used.



D. Computations of Time. The following rules apply to any computation of time, unless a specific section of these regulations indicate otherwise:

1. The day the act commences shall not be counted.
2. The last day of the time period shall be included unless it is a Saturday, Sunday, or legal City holiday, in which case the next working day shall end the time period.
3. Whenever any time period is expressed for a formal submittal to the City, the time period shall end at 4:00 P.M. on the last day of that time period.

4. Any time period expressed in years shall include a full calendar year from the act that commences the time period.
5. The time period legally required by law for public notices shall include all calendar days, unless specified otherwise by law.
6. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him/her and the notice or paper is served by mail, three days shall be added to the prescribed period.

E. Interpretation of Zoning Map. Where uncertainty exists with respect to any boundary on the zoning district map, the following rules shall apply:

1. Where boundaries are indicated to approximately follow streets or other rights of way or water bodies, the centerlines or extension of these centerlines shall be the boundaries. The portion of the right of way between the centerline and an adjacent parcel shall be considered to be within the same zone as such adjacent Parcel.
2. Where the district boundaries are indicated as approximately following property lines, the platted or other official legal line of that property shall be the boundaries.
3. Where the district boundaries split any platted lots, the lot shall be interpreted in the district designated to the majority of the lot.
4. Where the district boundaries split any un-platted property, any future platting of property may generally follow the zoning boundary and then each resulting property may assume the zoning applicable to the majority of the resulting lot, or where any resulting lots have significant discrepancies with zoning boundaries, rezoning may be required.

F. Non-regulatory Provisions. Intent statements, graphics, and commentary, such as captions to graphics or notes in tables, are an aid to interpretation of the standards. In the event of any conflict or ambiguity between the intent statements, graphics, or commentary and a specific standard, the specific standard shall control.

G. Resources, Guides, and Industry Standards. Resources, guides, and industry standards that are recognized as reputable authority in the planning, development, and urban design professions may be used to supplement interpretation of this Code. They shall be subject to the approval of the City Administrator or his or her designee (designees) responsible for administering this Chapter as defined in **Section 26-3 (Administration and Review Bodies)** below and upon a determination that the content is consistent with the purposes, intent, and design objectives of these regulations and the policies of the Comprehensive Plan. Any resource, guide, or industry standard approved by the City Planner shall be listed in Appendix A and at least one copy shall be kept on file with the Public Works Department. Use of these guides shall only be to the extent that it is consistent with the purposes, intent, and design objectives expressed in these regulations, and shall not be used to otherwise modify, contradict, or in any way conflict with any specific standard in these regulations.

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SEC. 26-3 Administration and Review Bodies

A. Staff. The following City staff positions are responsible for administering specific aspects of this Code:

1. *Director of Public Services.* The Director of Public Services shall be responsible for the administration of this Chapter and may designate certain duties to the City Planner (or other City staff as he/she may designate). The Director of Public Services shall be responsible for regulating and reviewing the engineering design, construction, operation, and maintenance of all public improvements specified under these regulations. The Director of Public Services shall advise the City Planner on any technical specifications and engineering designs that impact implementation of the Comprehensive Plan, and may make any final administrative decisions referred to the Director of Public Services under the procedures and standards of these regulations.
2. *City Planner.* The City Planner (or his/her designee) is responsible for the principal interpretation of the zoning and use standards, site and landscape design standards, sign standards, and access and parking components of these regulations. The City Planner will consult with the Director of Public Services regarding the engineering design, construction, operation, and maintenance of all public improvements related to zoning requests and may consult with any other department or relevant outside agencies in order to coordinate their plans, policies, and programs that relate to the regulations of this Chapter and that impact on the Comprehensive Plan. The Director of Public Services shall make all final interpretation decisions and any final administrative decisions referred to the City Planner under the procedures and standards of these regulations. The City Planner (or his/her designee) shall also serve as principal liaison to the Planning Zoning and Architectural Review Commission.

B. Planning, Zoning, and Architectural Review Commission. The Planning, Zoning, and Architectural Review Commission, hereinafter referred to as the Planning Commission, is the appointed body of the City responsible for all long-range and comprehensive planning, as well as review, recommendations, and decisions on implementation of the Comprehensive Plan. In addition to other general planning authority by statute, local ordinance, or bylaws, the Planning Commission shall have the specific review responsibilities and final administrative decisions referred to the Planning Commission under the procedures and standards of these regulations and as specified **in this Section.**

1. *Composition.* The Planning, Zoning, and Architectural Review Commission shall consist of eight members, seven of whom shall be citizens of Crestwood, plus a non-voting aldermanic representative. Members are appointed by the Mayor with the approval of a majority of the authorized membership of the Board of Aldermen. Reasonable efforts shall be made to ensure all wards are represented, however the qualifications of members shall be the primary guiding principle in making appointments and no Commission shall be deemed improperly constituted or unlawful if all wards of the City are not represented thereon. Three of the citizen members shall be citizens-at-large, and reasonable efforts shall be made for the remaining four citizen members to include: a reputable architect, a City Planner, a landscape architect or a person knowledgeable of the construction industry, and a member of the Missouri Bar. All citizen members shall be appointed to terms of four years in duration, with each term beginning and ending on July 1. The terms shall be staggered with three groups consisting of two members and one remaining citizen member. Only one group (or the remaining citizen member) shall be appointed on July 1 of each year, and another group (or the remaining citizen member) shall be appointed on July 1 of every following year. All members of the Commission shall serve until his/her successor is appointed and qualified.

2. *Attendance.* Citizen members absent without excuse from three consecutive meetings, whether regular or special, shall be subject to removal under subsection (3) of **this Section**.
3. *Duties and responsibilities.* The Commission shall perform the duties required by this Division and the duties required for a plan commission/zoning commission set forth in Chapter 89, RSMo. The Commission shall adopt rules in accordance with the provisions of this article. All citizen members shall be removable for cause by the Board of Aldermen upon written charges and after public hearing.
4. *Chairperson.* The Commission shall elect its chairperson and secretary from among the citizen members. The term of chairperson and secretary shall be for one year with eligibility for reelection. The chairperson shall be the presiding officer of all meetings of the Commission and shall have voice and vote the same as all other members. In the absence of the chairperson, the secretary shall serve as acting chairperson.
5. *Aldermanic representatives.* The Mayor, with the approval of a majority of the members of the Board of Aldermen, shall appoint an aldermanic representative from the members of the Board of Aldermen to act as liaison between the Board of Aldermen and the Commission. Participation in all discussions is strongly encouraged, but the aldermanic representative shall not have a vote on the Commission.
6. *Ex officio members.* The City Planner shall be an ex officio, nonvoting member of the Commission, acting in an advisory capacity and shall attend all meetings of the Commission. If the City Planner is unable to attend any such meeting, a representative shall be designated to attend by the Director of Public Services or the City Administrator.
7. *Clerical staff.* The Commission shall be provided with a clerical staff person by the City administration, who is not a voting member of the Commission. It shall be the duty of this staff to take minutes of the proceedings of the Commission. A set of minutes of the Commission meetings shall be made public in accordance with applicable state law. Records of the Commission shall be public records.
8. *Vacancies.* Vacancies of citizen members of the Commission shall be filled in the same manner as an original appointment, with the replacement to serve the unexpired term of any member whose term becomes vacant.
9. *Reports.* The Planning Commission, by and through the City Planner, shall make monthly reports to the mayor and Board of Aldermen covering their investigations, hearings, transactions, and recommendations and such other reports and recommendations relative thereto as it may deem proper.
10. *Functions.*
 - a. *Planning:* The Planning Commission, may prepare, from time to time, a comprehensive plan for the City; area or neighborhood plans for land use and development; and/or a zoning system covering the whole or any part of the City.
 - b. *Zoning:* The Planning Commission shall consider all applications for site plan or development plan review, conditional use permits, signage, and proposals to amend or change the zoning ordinance, in accordance with the procedures set forth in this Chapter,

and shall report to the board, in writing, its recommendations thereon, stating the reasons therefore.

11. *Meetings and quorum.* The Commission shall hold regular meetings every month. Special meetings may be scheduled at any time by the Mayor, the Chairperson, or the City Planner, provided that there is at least one week's notice provided to the public and all members of the Commission, including the aldermanic representative and the City Planner. All meetings of the Commission shall be open to the public. A quorum shall consist of four members. The aldermanic representative and any ex officio members do not count toward establishing a quorum.

C. Board of Aldermen. The Board of Aldermen is the elected body of the City of Crestwood responsible for all legislative decisions that affect implementation of the Comprehensive Plan. In addition to other general authority authorized by law, the Board of Aldermen shall have the appeal authority and final decision authority referred to the Board of Aldermen under the procedures and standards of these regulations.

D. Board of Adjustment. The Board of Adjustment for the City of Crestwood is hereby established under the provisions of Chapter 89, RSMo regarding the zoning of cities.

1. *Composition.* The Board of Adjustment shall consist of five citizens of Crestwood. Members are appointed by the Mayor with the approval of a majority of the authorized membership of the Board of Aldermen. Reasonable efforts shall be made to ensure all wards are represented, however the qualifications of members shall be the primary guiding principle in making appointments and no board shall be deemed improperly constituted or unlawful if all wards of the City are not represented thereon. All members shall be appointed to terms of five years in duration, with each term beginning and ending on July 1. The terms shall be staggered so that one member's term expires on July of each year. Three alternate members may be appointed to serve in the absence or the disqualification of the regular members. All members, including alternate members, of the Board of Adjustment shall serve until his/her successor is appointed and qualified.

2. *Meeting and Voting.* The Board of Adjustment shall adopt rules in accordance with the provisions of this Section. Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. Such chairman, or, in his absence, the vice chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. A quorum shall consist of four members. All members and alternates shall be removable for cause by the Mayor and a majority of the authorized membership of the Board of Aldermen upon written charges and after public hearing. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment (being the same as the office of the City Clerk), and shall be public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the Board of Adjustment for that purpose.

3. *Chairperson.* The board shall elect its own chairman who shall serve for one year. The board shall also elect its own vice-chairman, and may elect a secretary, both of whom shall serve for one year. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses.

4. *Clerical staff.* The Board of Adjustment shall be provided with a clerical staff person by the City administration, as needed to maintain the records of the Board. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment (being the same as the office of the City Clerk), and shall be a public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the Board of Adjustment for that purpose.
5. *Vacancies.* Vacancies shall be filled in the same manner as an original appointment, with the replacement member to serve for the unexpired term of any member whose term becomes vacant.
6. *Powers and Duties.* The Board of Adjustment shall hear and decide appeals and consider requests for variances as set forth in **this Section**:
 - a. *Appeals:* To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Director of Public Services in the enforcement of these regulations.
 - (1) Appeals to the Board of Adjustment may be taken by the person aggrieved, or by an officer, department, or bureau of the government, affected by any decision of the Director of Public Services. Such appeal shall be filed with the Director of Public Services within a reasonable time, as shall be prescribed. The Director of Public Services shall forthwith transmit to the secretary of the Board of Adjustment all papers constituting the record upon which the action appealed from is taken.
 - (2) An appeal stays all proceedings in furtherance of the action appealed from, unless the Director of Public Services certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment, or by a court of record on application or notice to the Director of Public Services on good cause shown.
 - b. *Variances:* To authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulties or unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.
 - (1) The applicant must show that this property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of this specific piece of property at the time of the effective date of the district zoning regulations, or where by reason or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the practical use of his property in the manner similar to that of other property in the zoning district where it is located.

- (2) A request for a variance may be granted upon a finding of the Board of Adjustment that all of the following conditions have been met. The Board of Adjustment shall make a determination on each condition and the finding shall be entered in the record.
 - (a) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
 - (b) That literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter.
 - (c) That the special conditions and circumstances do not result from the actions of the applicant.
 - (d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other land, structures, or buildings in the same district.
 - (e) In granting a variance, the Board of Adjustment may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. Where this Chapter provides more specific criteria for a particular type of variance, for instance, a variance from stream buffer or flood-plain development requirements, the more specific criteria shall govern.
 - (3) Other matters: To hear and decide all matters referred to it or upon which it is required to pass under this Chapter.
7. *Review and Considerations.* In determining whether the evidence presented supports all of the conclusions required by **Section 26-3(D)(6)(b)**, above, the Board of Adjustment shall consider the extent to which the evidence demonstrates that:
- a. The particular physical surroundings, shape, or topographical conditions of the property involved would result in a severe practical difficulty or extreme hardship upon or for the owner, lessee, or occupant, if the provisions of this Chapter were literally enforced;
 - b. The request for a variation is not based exclusively upon the desire of the owner, lessee, occupant, or applicant to secure a greater financial return from the property;
 - c. The granting of the variation will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located; and
 - d. The proposed variation will not impair an adequate supply of light to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

8. *Application for Board of Adjustment Review.* Application for Board of Adjustment review and procedures and requirements are as follows:
- a. *Procedure.* The procedure for requesting a hearing before the Board of Adjustment shall be as follows.
- (1) All applications to the Board of Adjustment shall be in writing on forms provided by the Board of Adjustment and filed with the City Clerk.
 - (2) The Board of Adjustment shall fix a reasonable time for the hearing of an application, and give public notice thereof, as well as due notice to the parties in interest as required by 89.100, RSMo. The Board of Adjustment shall post public notice of such hearing in a prominent location at the City Government Center at least fifteen (15) days in advance of such hearing. The Board of Adjustment may also provide public notice by posting same on the property for which a variance is to be considered and posting notice at the City's website. The secretary shall submit a list of those persons receiving the notice to the Board of Adjustment at the public hearing.
 - (3) An application shall be accompanied by a filing fee in an amount established by the Board of Aldermen. A separate filing fee shall be required for each request.
- b. *Additional requirements:* In addition to the above requirements, certain applications require additional information as follows:
- (1) *Appeals:*
 - (a) An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the appropriate administrative officer or board.
 - (b) A copy of the order, requirement, decision, or determination of the appropriate administrative officer or board, which the applicant believes to be in error, shall be submitted.
 - (c) A clear, accurate, written description of the proposed use, work, or action to which the appeal is involved and a statement justifying the applicant's position.
 - (d) Where necessary, a plat plan, drawn to scale, in duplicate showing existing conditions and proposed plans for the area in question shall be submitted.
 - (2) *Variances:*
 - (a) The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the four (4) conditions as set out in subsection **26-3(D)(6)(b)(2)**, above, of this Chapter.

- (b) The applicant shall submit a sketch, in duplicate, drawn to scale, and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information, which would be helpful to the Board of Adjustment in consideration of the application, shall be included.
- (3) *Re-application to Board of Adjustment:* In the event that an appeal is denied by the Board of Adjustment, re-application for the purpose of review of the same appeal on the same property, or part thereof, shall not be accepted by the City until six (6) months following the date of final action on the original appeal, unless it can be shown to the satisfaction of the Director of Public Services that substantial new evidence, not available during review of the original appeal, will be presented.
- 9. *Period of Validity.* Unless as otherwise specified by the Board of Adjustment in their approval for an application, no variance granted by the Board of Adjustment shall be valid for a period longer than ninety (90) days from the date upon which the variance is granted, unless within such period:
 - a. A building permit is obtained and the construction, or alteration of the structure, is commenced and pursued diligently toward completion; or
 - b. A certificate of occupancy is obtained and a use or occupancy commenced. The Board of Adjustment may grant extensions not exceeding one hundred eighty (180) days each, upon written application, without notice or hearing.
- 10. *Approvals, Required Vote.* A concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in the Chapter.
- 11. *Appeal of Board of Adjustment Decision.* Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, or any officer, department, or board of the City may, within thirty (30) days of the issuance of the decision of the board, present to the circuit court of the county a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality in accordance with appropriate state statute.

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SEC. 26-4 Enforcement

- A. Violations.** In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of this Chapter or other regulation made under authority conferred hereby, the proper local authorities of the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use to restrain, correct, or abate such violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
- B. Enforcement.** Such regulations shall be enforced by the Director of Public Services, who is empowered to cause any building, structure, place, or premises to be inspected and examined, and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made under authority of this Chapter. The City may investigate and initiate proper actions or proceedings to prevent or terminate any activity or condition that is in violation of these regulations, including revoke or withhold any permits, prevent the sale or lease of property, correct or abate the nuisance, withhold any public improvements, or penalize and initiate legal proceedings to prevent the continuance of unlawful actions or conditions. Upon presentation of proper credentials, the Director of Public Services may enter at reasonable times any building, structure, or premises in the City or perform any duty imposed upon him by these regulations. If the owner or occupant shall refuse to allow entry to the Director of Public Services, the Director of Public Services may apply to a court of competent jurisdiction for a search warrant or take any legal action necessary for the purpose of securing entry.
- C. Penalties.** Except where another more specific penalty provision is provided in this Chapter, violation of the regulations of this Chapter may be subject to penalties as follows:
1. The owner or general agent of a building or premises where a violation of any provision of the regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part, or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) for each and every day that such violation continues, but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars (\$100.00) or more than two hundred fifty dollars (\$250.00) for each and every day that such violation shall continue or by imprisonment for ten (10) days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.
 2. Any such person who, having been served with an order to remove any such violation, shall fail to comply with the order within ten (10) days after such service or shall continue to violate any provision of the regulations made under authority of this Chapter in the respect named in such order shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).
 3. In addition to the penalties hereinabove authorized and established, the City Attorney shall take such other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violations of this Chapter.