

*SECTION 4*

## SECTION 4

### Authorized Uses

#### 4.1 Primary Uses

Primary uses are authorized in the districts established by or under Subsection 3.1 as shown by an "X" in the table at the end of this section. Where the use is designated for the district with an "S", the use is permitted in that district only if a special use has been approved under Subsection 7.

#### PERMITTED PRIMARY USES WITHIN DISTRICTS

PRIMARY USE	DISTRICTS IN WHICH PERMITTED										
	R1	R2	R3	HS	LB	GB	CB	OD	I	A	FP
<b>RESIDENTIAL USES</b>											
Boarding or Lodging House			X		X	X	X			X	
Dwelling, Single-Family	X	X	X		X		X			X	
Dwelling, Two-Family			X		X		X			X	
Dwelling, Multi-Family		X	X		X		X				
Mobile Home (1)	X	X	X		X		X			X	
Nursing Home			X		X					X	
Manufactured Home	X	X	X		X		X			X	
Group Home		S	S		S		S			S	
<b>AGRICULTURAL USES</b>											
Artificial Lake of 3 or More Acres	S	S	S	S	S	S			S	S	S
Commercial Greenhouse						X			X	X	
Farm					X	X			X	X	X
<b>INDUSTRIAL USES</b>											
Bottled Gas Storage & Distribution									X	S	
Industry, General									X		
Industry, Light						X		X	X		
Junk Yard									S	S	
Recycling Center						X			X		
Liquid Fertilizer Storage & Distribution [Commercial]									S	S	
Manufacturing Storage or use of Explosives									S		
Mineral Extraction, Borrow Pit, Topsoil Removal & Storage Areas									X	S	S
Petroleum Tank Farm [Commercial]									X	S	
Communication Relay Tower						X			X	S	
Scrap Metal Yard									X	S	
Slaughter House									S	S	
Truck Terminal				S		S			X		
Other Uses Not Specified						S			S		
<b>PUBLIC FACILITIES</b>											
Airport										S	
Church or Temple		X	X		X	X	X			X	
Governmental Offices					X	X	X	X		X	
Kindergarten or Day Care Center	S	S	X	X	X	X	X	X	X	S	
Penal or Correctional Institution				S	S	S	S	S	X	S	
Police Station or Fire Station	S	S	X	X	X	X	X	X	X	X	
Public Library or Museum		S	S		X	X	X	X		S	
Public Park	X	X	X	X	X	X	X	X	X	X	X
Public Swimming Pool	S	S	S	S	S	S	S	S		S	

PRIMARY USE	DISTRICTS IN WHICH PERMITTED										
	R1	R2	R3	HS	LB	GB	CB	OD	I	A	FP
Public or Commercial Sanitary Fill, Refuse Dump, Garbage Disposal Plant, or Trash Station									S	S	
Public or Commercial Sewage Disposal Plant				S	S	S			S	S	S
Parking Lot or Parking Garage [2]				X		X	X	X			
School: Public, Parochial, Private	X	X	X	X	X	X	X			X	
Telephone Exchange or Public Utility Substation	S	S	S	X	X	X	X	X	X	X	
Trade or Business School				X	X	X	X	X	X		
Post Office			S	X	X	X	X	X	X		
<b>BUSINESSES USES: APPLIANCES</b>											
Electric Appliance Service & Sales					X	X	X				
Radio, TV & Music Service & Sales					X	X	X				
Satellite Dish Sales & Service					X	X	X				
Other Similar Uses						X	X				
<b>BUSINESS USES: AUTOMOBILE SERVICES</b>											
Car Wash				X	S	X					
Automobile Sales & Service						X	X				
RV and Camper Sales and Service				X		X	X				
Motor Vehicle Repair				X		X	X				
Gasoline Station, with repair				X		X	X				
Gasoline Station, without repair				X	S	X	X				
Other similar Uses				X		X	X				
<b>BUSINESS USES: CLOTHING SERVICES</b>											
Dressmaking Shop				X	X	X					
Dry Cleaning & Laundry Establishment				X	X	X					
Millinery Shop				X	X	X					
Self-service Laundry				X	X	X					
Shop Repair Shop				X	X	X					
Tailor and Pressing Shop				X	X	X					
Other Similar Uses				X	X	X					
<b>BUSINESS USES: FOOD SALES &amp; SERVICE</b>											
Baker - Retail					X	X	X				
Boarding Kennel						X	X		X	X	
Dairy - Retail					X	X	X				
Delicatessen					X	X	X				
Drive-In				X	X	X	X				
Grocery, including convenience stores				X	X	X	X				
Meat Market				X	X	X	X				
Restaurant, w/o Alcoholic Beverage				X	X	X	X				
Restaurant, w/Alcoholic Beverage				X	X	X	X				
Roadside Food Sales Stand				X	S	X	X				X
Wholesale Produce Terminal						X	X		X		
Other Similar Uses				S	S	X	X	S			
<b>BUSINESS USES: PERSONAL SERVICES</b>											
Barber Shop	S	S	S		X	X	X				
Beauty Shop	S	S	S		X	X	X				
Health Spa or Fitness Center [3]					X	X	X	X			
Other Similar Uses					X	X	X	S			
<b>BUSINESS USES: RECREATION</b>											
Bait Sales						X	X				
Billiard Room [3]						X	X			S	
Bowling Alley [3]						X	X				
County Club or Golf Course	S	S	S							X	S

PRIMARY USE	DISTRICTS IN WHICH PERMITTED										
	R1	R2	R3	HS	LB	GB	CB	OD	I	A	FP
Dancing, Aerobic, Gymnastic Studio [3]					X	X	X	X			
Lodge or Private Club					S	X	X			S	
Night Club [3]						X	X				
Outdoor Commercial Recreational Enterprise				S	S	S	S	S		S	S
Private Recreational Development including Swimming Pool	S	S	S	S	S	S	S	S		S	S
Private Camp										S	S
Riding Stable & Trails										S	S
Theater, Indoor [3]					S	X	X				
Theater, Outdoor						S				S	
Campground [4]				S						S	S
Other Similar Uses				S	S	X	S	S		S	
<b>BUSINESS USES, RETAIL SALES</b>											
Liquor Store					S	X	X				
Apparel Shop					X	X	X				
Department Store					X	X	X				
Drugstore				X	X	X	X				
Flower Shop [5]					X	X	X				
Gift Shop				X	X	X	X				
Hardware Store					X	X	X				
Jewelry Store					X	X	X				
News dealer					X	X	X				
Record Shop					X	X	X				
Antique Shop				X	X	X	X				
Stationery and Book Store					X	X	X				
Sporting Goods					X	X	X				
Furniture Store					X	X	X				
Other Similar Uses				S	X	X	X				

**Footnotes:**

1. Permitted only as a temporary use subject to the requirements of Subsection 8.5
2. Parking lots and parking garages as primary uses are also subject to the landscaping requirements in Subsection 5.13 (f) (iii) and (iv) for required accessory parking lots.
3. Only if conducted in a nose-proof building.
4. Only if plans have first been approved by the appropriate State agency (ies). Campgrounds are also permitted in FP zones only if also approved by DNR, but shall be permitted within a regulatory floodway.
5. Including a greenhouse not larger than two (2) thousand square feet in area.

**4.2 Accessory Uses**

- A. Accessory uses shall be permitted in all zone districts in accordance with provision of this section.
- i. Shall be incidental and subordinate to, an commonly associated with the operation of the primary use.
  - ii. Shall be operated and maintained under the same ownership and on the same lot as the primary use.
  - iii. Shall be clearly subordinate in height, area, bulk, extent and purpose to the primary use.

- iv. Shall not be located closer to any lot line than the minimum setback line required in the district in which it is located.
- v. Swimming pools shall not be permitted prior to the erection and operation of the primary use, unless specified otherwise in this ordinance.

B. Such accessory uses include the following and are authorized in all districts subject to the provisions of any and all recorded restrictive covenants running with the land;

- Bird Baths and bird houses
- Buildings, garages, carports, canopies, patios, outdoor fireplaces
- Curbs
- Driveways
- Fences and Hedges\*
- Lamp posts
- Mail boxes
- Swimming pools as regulated by Subsection 4.2C
- Name plates
- Parking spaces
- Private swimming pools enclosed by a 5-foot high fence or, 5-foot vertical enclosure integral with an above ground pool
- Public utility installations for local service (such as poles, lines, hydrants, and telephone booths)
- Retaining walls
- Trees, shrubs, plants and flowers
- Walks

\* Provided that, in any residence district, ornamental fences and hedges shall not exceed forty-two [42] inches in height in the required front yard, except that open chain link fences may be erected to four feet in height, or as provided in Subsection 5.7.

C. Swimming pools are accessory uses, except as permitted on the Table in Subsection 4.1. Swimming Pools shall be permitted in accordance with the following:

- i. The swimming pool areas shall be enclosed by a substantial fence or other protective barrier which shall be adequate to prevent persons, children or animals from danger or harm, at least a six [6] foot high fence and shall be equipped with a self-latching lock gate.
- ii. Mechanical equipment shall be enclosed.
- iii. Abandoned pools and unused pools which are occupied for periods of 30 days or more shall be drained or equipped with a pool cover, adequate to prevent accidents.
- iv. Contractors shall have the responsibility of properly excavation sites in the course of construction so that no hazards are created.
- v. No pool shall be constructed until adequate drainage measures are evident, adequate distance from overhead electric wires in allowed for, and an improvement location permits is obtained therefore.

### 4.3 Non-conforming Uses and Structures

#### A. Intent.

Within the districts established by this ordinance or by amendments that may later be adopted, there may exist:

- i. Non-conforming lots;
- ii. Non-conforming structures;
- iii. Non-conforming uses of land;
- iv. Non-conforming uses of land and structures in combination; and
- v. Non-conforming characteristics of use.

These were lawful before this ordinance was passed or amended, but they are prohibited, regulated or restricted under the terms of this ordinance or may be under future amendments hereto. It is the intent of this ordinance to permit these non-conforming uses to continue until they are removed but not to encourage their survival. It is further the intent of this ordinance that non-conforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district. [Note: Illegal uses existing at the time this ordinance is enacted shall not be validated by virtue of its enactment.]

#### B. Incompatibility of Non-conforming Uses.

Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts in which such use is located. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

#### C. Avoidance of Undue Hardship.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or development on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

#### D. Residential Use.

*Residential dwellings shall be permitted in any districts, unless prohibited in FP districts by DNR.. Any residential use may be enlarged, altered or reconstructed, provided, however:* 1. Such residential use shall comply with all residential regulations established by this ordinance. 2. This provision shall not be constructed to include more than one use on a lot, and shall be applicable so long as such use remains otherwise lawful. 3. Mobile homes that

are non-conforming shall be replaced in conformance with this section and shall meet all federal, state and local safety and other standards in effect at the time of replacement.

**E. Non-conforming Lots of Record.**

- i. In any district in which a principle building is permitted, a principle building and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance, provided however, such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.
- ii. The above provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that the setback dimensions and requirements other than those applying to area or width, or both, of the lot is located. Variance of setback requirements shall be obtained only through action of the Board of Zoning Appeals.
- iii. If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with the lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

**F. Non-conforming Uses of Land.**

Where, at the time of adoption of this ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

- i. No such non-conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- ii. No such non-conforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this ordinance.
- iii. If any such non-conforming uses of land are discontinued or abandoned for more than six [6] months (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- iv. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

**G. Non-conforming Structures.**

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not now be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other

requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

- i. No such non-conforming structure may be enlarged or altered in a way which increases or decreases its nonconformity.
- ii. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to the extent of more than 50 percent of the fair market value of the building immediately prior to the damage, it shall not be reconstructed except in conformity with the use of the district is located in and in conformance with the provisions of this ordinance.
- iii. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### **H. Non-conforming Uses of Structures or of Structures and Land in Combination.**

If a lawful use involving individual structures, or if a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance that would not now be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- i. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, increased, reduced, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- ii. A non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- iii. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
- iv. When a non-conforming use of a structure, or structure and land in combination is discontinued or abandoned for more than one [1] month (except when government action impedes access to the premises), the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located. Non conforming mobile homes, once removed, if replaced with another mobile home; the replacement mobile home must meet all federal, state and local safety and other applicable standards and criteria in effect at the time of replacement.

#### **I. Repairs and Maintenance.**

- i. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not to exceed the cubic content existing when it became non-conforming.



- ii. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt after six [6] months of said declaration except in conformity with the regulations of the district in which is located.
- iii. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

#### **4.4 Garage or Yard Sale**

- A. As used herein "garage or yard sale" is defined as a public or private sale conducted by the owner or occupier of a premise, and conducted within a residence, garage, other accessory buildings or outside thereof, which sale is of six or more items of personal property owned or in the possession of the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.
- B. A garage or yard sale may be conducted three [3] times in any one [1] calendar year on any premises in any district, but no such sale shall be conducted for more than five (5) consecutive days.
- C. All items of personal property sold at such garage or yard sale shall be owned by the owner or occupier of the premises, unless permission for sale of items not owned is given at the time of issuance of the permit provided for herein by the person issuing the permit. Any person having goods for sale shall have their name listed on the permit.
- D. Such garage or yard sale shall only be conducted during the hours from sunrise to sunset.
- E. All personal property exhibited for sale outside any structure during such garage or yard sale shall be removed from the outside and placed within a structure immediately following the last day of such sale. All signs erected for such garage or yard sale shall likewise be removed.
- F. No such garage or yard sale shall be held without the owner or occupier of the premises having first obtained a permit therefor. Such permit shall be obtained by applying therefor from the Administrator who shall issue such permit upon payment of a fee of One Dollar (\$1.00). Such permit shall specify the address and date of such sale. See Table in Subsection 4.1 for Permitted Primary Uses Within Districts.