

Chapter 134. Zoning

ARTICLE 3. USES

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134-3.1 Principal Uses

3.1.1 TABLE OF ALLOWED USES

Principal uses are allowed in accordance with Table 134-3.1-1 of this article.

3.1.2 INTERPRETING THE USE TABLE

A. Use Classification System. Uses are listed in the first column of Table 134-3.1-1 of this article. This zoning ordinance classifies uses into categories and subcategories, which are defined in section 134-3.2 of this article. In some cases, specific use types are listed in addition to the use categories and subcategories. The final "Reference" column of Table 134-3.1-1 of this article includes a cross-reference to the applicable use definition and any applicable supplemental use regulations.

B. Permitted Uses. Uses identified with a ● are permitted as-of-right in the subject zoning district, subject to compliance with any supplemental regulations identified in the final column of Table 134-3.1-1 of this article and with all other applicable regulations of this zoning ordinance.

C. Conditional Uses. Uses identified with ○ symbol are allowed only if reviewed and approved in accordance with the conditional use procedures of section 134-6.4 of this article.

D. Multiple Units. Uses identified with a "②" or a "④" are permitted only in zoning districts with a map symbol (abbreviation) that includes a "-2" or "-4" extension, respectively. An N5-4 district, for example, allows up to four household units per lot.

E. Prohibited Uses. Uses identified with an "- " are expressly prohibited. Uses that are not listed in the table and that cannot be reasonably interpreted pursuant to section 134-3.2 of this article, to fall within any defined use category or subcategory are also prohibited.

F. Reference. The final "Reference" column of Table 134-3.1-1 of this article includes a cross-reference to the use definition and any applicable supplemental use regulations that apply to the subject use. Unless otherwise expressly stated, compliance with supplemental use regulations is required regardless of whether the use is permitted as-of-right or requires conditional use approval.

G. Accessory Uses. Accessory uses are not regulated by Table 134-3.1-1 of this article. Customary accessory uses are allowed in conjunction with principal uses permitted by right or by conditional use approval, subject to compliance with all

applicable accessory use regulations of section 134-3.9 of this article.

H. Other Uses. Other uses are identified in Table 134-3.1-1 of this article and are subject to the supplemental regulations of section 134-3.8 of this article.

134-3. USES

Principal Uses

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TABLE 134-3.1-1. PRINCIPAL USE TABLE

USE CATEGORY		DISTRICTS																					
Use Subcategory	Specific Use Type	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2	F	Reference
RESIDENTIAL																							
Household Living																							
1 household (per lot)		●	○	○	●	○	○	○	●	●	○	-	-	-	●	●	●	●	●	-	-	-	134-3.3.1
2 households (per lot)		-	○	○	●	○	○	○	●	●	○	-	-	-	②	●	●	●	-	-	-	-	134-3.3.1
3 to 4 households (per lot)		-	○	○	●	○	○	○	●	●	○	-	-	-	④	●	●	●	-	-	-	-	134-3.3.1
5 to 8 households (per lot)		-	○	●	●	○	○	○	●	●	○	-	-	-	-	●	●	●	-	-	-	-	134-3.3.1
9 or more households (per lot)		-	○	●	●	○	○	○	●	●	○	-	-	-	-	-	●	●	-	-	-	-	134-3.3.1
Mobile home park		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	-	-	-	134-3.3.1
Group Living																							
Assisted living facility		-	○	●	●	●	●	●	●	●	●	-	-	-	-	-	●	○	-	-	-	-	134-3.3.2
Correctional placement residence		-	○*	○*	○*	○*	○*	○*	○*	○*	○*	-	-	-	-	-	○*	○*	-	-	-	-	134-3.3.2
Family home		●*	●*	●*	●*	●*	●*	●*	●*	●*	●*	-	-	-	●*	●*	●*	●*	●*	-	-	-	134-3.3.2
Home and community-based services waiver recipient residence		●*	○*	●*	●*	○*	○*	○*	●*	●*	○*	-	-	-	●*	●*	●*	●*	-	-	-	-	134-3.3.2
Shelter, temporary		-	○*	●*	●*	○*	○*	○*	●*	●*	○*	-	-	-	-	-	●*	●*	-	-	-	-	134-3.3.2
Group living not otherwise classified		-	○	○	○	○	○	○	○	○	○	-	-	-	-	-	○	○	-	-	-	-	134-3.3.2
PUBLIC, CIVIC AND INSTITUTIONAL																							
Airport		-	-	-	-	-	-	-	-	-	-	-	●	●	-	-	-	-	-	-	●	○	134-3.4.1
Assembly																							
Place of Worship		-	●	●	●	○	●	●	○	●	●	●	-	-	-	-	○	○	-	-	●	-	134-3.4.2
Place of Assembly		-	●	●	●	○	●	●	○	●	●	●	-	-	-	-	○	○	-	-	●	-	134-3.4.2
Cemetery																							
City-owned		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	-	-	134-3.4.3
Non-city-owned		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	○*	-	-	134-3.4.3
College or University		-	●	●	●	-	-	-	●	●	●	●	-	-	-	-	-	-	-	-	●	-	134-3.4.4
Fraternal Organization		-	○	○	●	○	○	○	●	●	○	●	●	●	-	-	-	-	-	-	●	-	134-3.4.5
Government Administration		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	-	134-3.4.6
Hospital		-	●	●	●	-	-	-	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.7
Library or Cultural Exhibit		-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.8
Public Recreation Areas		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	●	●	○	134-3.4.9
Postal Service		-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.10
Safety Service		●	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.11
School		-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.4.12

KEY: ●=permitted by right | ●=permitted on upper floors only | ○=requires conditional use approval | *supplemental use regulations apply | --=prohibited

②=permitted by right where district includes "-2" extension | ④=permitted by right where district includes "-4" extension

① = permitted except where district includes "-V" extension | ⑥ = permitted with conditional use approval in NX2a district only

Ⓜ = permitted on major commercial corridors only

TABLE 134-3.1-1. PRINCIPAL USE TABLE

USE CATEGORY Use Subcategory Specific Use Type	DISTRICTS																			
	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2
Utilities and Public Service Facilities																				
Minor	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	○
Major	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
COMMERCIAL																				
Adult Entertainment	-	-	-	-	-	-	-	-	-	-	-	○*	○*	-	-	-	-	-	-	-
Animal Service																				
Boarding	●	-	-	-	-	-	●	-	-	●	●	●	●	-	-	-	-	-	-	-
Grooming	●	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-
Stable	●	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Veterinary	●	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-
Assembly and Entertainment																				
Small	-	●	●	●	○	●	●	○	●	●	●	-	-	-	-	○	○	-	○	-
Large	-	●	●	●	-	●	●	-	●	●	●	-	-	-	-	○	○	-	○	-
Events Center	-	●	●	●	-	●	●	-	●	●	●	-	-	-	-	○	○	-	○	-
Broadcast or Recording Studio	-	●	●	-	-	●	●	-	●	●	●	●	●	-	-	-	-	-	●	-
Business or Trade School	-	●	●	-	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-
Commercial Service																				
Consumer Maintenance and Repair	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-
Personal Service	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-
Studio or Instructional Service	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-
Day Care	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-
Day Services, Adult	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-
Eating and Drinking Places																				
Restaurant	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	Ⓢ	-	-	○	○
Bar	-	○	○	○	-	○	○	-	○	○	-	-	-	-	-	-	-	-	○	○
Financial Service (except as below)	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-
Ball Bonds	-	-	-	-	-	●	-	-	●	-	-	-	-	-	-	-	-	-	-	-
Delayed Deposit Service	-	-	-	-	-	●	-	-	●	-	-	-	-	-	-	-	-	-	-	-
Pawnbroker	-	-	-	-	-	●	-	-	●	-	-	-	-	-	-	-	-	-	-	-
Funeral or Mortuary Service	-	-	-	-	-	-	●	-	●	●	●	●	-	-	-	-	-	-	-	-
Lodging																				
Bed & Breakfast	○*	○*	○*	○*	○*	○*	○*	○*	○*	○*	-	-	-	○*	○*	○*	○*	-	-	-
Hotel/Motel	-	●	●	●	-	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-
Short-Term Commercial Rental	○*	○*	○*	○*	○*	○*	○*	○*	○*	○*	-	-	-	○*	○*	○*	○*	-	-	-

KEY: ●=permitted by right | ○=permitted on upper floors only | ○=requires conditional use approval | *supplemental use regulations apply | --=prohibited

②=permitted by right where district includes "2" extension | ④=permitted by right where district includes "4" extension

Ⓢ = permitted except where district includes "V" extension | Ⓢ = permitted with conditional use approval in NX2a district only

Ⓢ = permitted on major commercial corridors only

134-3. USES

Principal Uses

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TABLE 134-3.1-1. PRINCIPAL USE TABLE

USE CATEGORY Use Subcategory Specific Use Type	DISTRICTS																			
	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2
Office																				
Business or Professional	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●
Medical	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	●
Parking, Non-Accessory																				
Surface Parking Lot	-	○*	○*	○*	○*	○*	○*	-	○*	●	●	●	●	-	-	-	-	-	○*	○*
Parking Structure	-	●	●	●	●	●	●	-	●	●	●	●	●	-	-	-	-	-	-	○*
Retail Sales																				
Limited	-	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-
General	-	●	●	●	-	●	●	-	-	●	-	-	-	-	-	-	-	-	-	-
Large-Format	-	●	○	-	-	-	-	-	-	●	-	-	-	-	-	-	-	-	-	-
Self-Service Storage																				
Sign, General Advertising	-	-	-	-	Ⓜ	Ⓜ	-	-	-	Ⓜ	Ⓜ	Ⓜ	Ⓜ	-	-	-	-	-	-	-
Sports & Recreation, Private/Participant																				
Indoor	-	●	●	●	●	●	●	-	-	●	●	●	●	-	-	-	-	-	○	○
Outdoor	-	-	-	●	-	-	●	-	-	●	●	●	●	-	-	-	-	-	○	○
Vehicle Sales and Service																				
Fuel Station	-	-	○	○	-	○	●	-	-	●	●	●	●	-	-	-	-	-	-	-
Vehicle Sales	-	-	-	-	-	-	Ⓥ	-	-	Ⓥ	-	Ⓥ	Ⓥ	-	-	-	-	-	-	-
Vehicle Rental	-	Ⓥ	Ⓥ	Ⓥ	-	Ⓥ	Ⓥ	-	-	Ⓥ	Ⓥ	Ⓥ	Ⓥ	-	-	-	-	-	-	-
Vehicle Maintenance/Repair, Minor	-	-	-	-	-	-	●*	-	-	●*	●*	●*	●*	-	-	-	-	-	-	-
Vehicle Maintenance/Repair, Major	-	-	-	-	-	-	-	-	-	●*	-	●*	●*	-	-	-	-	-	-	-
INDUSTRIAL																				
Fabrication and Production																				
Artisan	●*	●*	●*	●	●*	●*	●*	-	-	●*	●*	●*	●*	-	-	-	-	-	-	-
Limited	-	-	○*	○*	○*	○*	●*	-	-	●*	●*	●*	●*	-	-	-	-	-	-	-
General	-	-	-	-	-	-	-	-	-	-	-	●*	●*	-	-	-	-	-	-	-
Intensive	-	-	-	-	-	-	-	-	-	-	-	-	○*	-	-	-	-	-	-	-
Industrial Service																				
Light	-	-	-	-	-	-	●*	-	-	●*	●*	●*	●*	-	-	-	-	-	-	-
Intensive	-	-	-	-	-	-	-	-	-	-	-	●*	●*	-	-	-	-	-	-	-

KEY: ●=permitted by right | ●=permitted on upper floors only | ○=requires conditional use approval | *supplemental use regulations apply | --=prohibited
 ②=permitted by right where district includes "2" extension | ④=permitted by right where district includes "4" extension
 Ⓥ = permitted except where district includes "V" extension | Ⓜ = permitted with conditional use approval in NX2a district only
 Ⓜ = permitted on major commercial corridors only

TABLE 134-3.1-1. PRINCIPAL USE TABLE

USE CATEGORY	DISTRICTS																					
Use Subcategory																						
Specific Use Type																						
	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2, NX2a	NX3	NM	P1	P2	F	Reference
Storage, Distribution and Wholesaling																						
Equipment & Material Storage, Outdoor	-	-	-	-	-	-	-	-	-	-	-	⊙*	⊙*	-	-	-	-	-	-	⊙*	-	134-3.6.3
Trucking & Transportation Terminal	-	-	-	-	-	-	-	-	-	-	-	⊙*	⊙*	-	-	-	-	-	-	⊙*	-	134-3.6.3
Warehouse	-	-	-	-	-	-	-	-	-	⊙*	⊙*	⊙*	⊙*	-	-	-	-	-	-	⊙*	-	134-3.6.3
Wholesale sales and distribution	-	-	-	-	-	-	-	-	-	⊙*	⊙*	⊙*	⊙*	-	-	-	-	-	-	-	-	134-3.6.3
Junk or Salvage Yard	-	-	-	-	-	-	-	-	-	-	-	-	⊙*	-	-	-	-	-	-	-	-	134-3.6.4
Mining or Mineral Processing	-	-	-	-	-	-	-	-	-	-	-	-	⊙	-	-	-	-	-	-	-	⊙	134-3.6.5
AGRICULTURAL																						
Community and Urban Garden	⊙	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	134-3.7.1
Crop Production	⊙	-	-	-	-	-	-	-	-	⊙	⊙	⊙	⊙	-	-	-	-	-	⊙	⊙	⊙	134-3.7.2
Nursery or Truck Farm	⊙	-	-	-	-	-	-	-	-	⊙	⊙	⊙	⊙	-	-	-	-	-	⊙	⊙	⊙	134-3.7.3
OTHER																						
Alcoholic Liquor, Wine, or Beer Sales	-	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	⊙*	-	-	-	-	⊙*	-	-	-	⊙*	⊙*	-	134-3.8.1
Consumer Fireworks Sales	-	-	-	-	-	-	-	-	-	-	-	⊙*	⊙*	-	-	-	-	-	-	-	-	134-3.8.2
Wireless Telecommunications	Refer to article 4 of this chapter.																					

KEY: ⊙=permitted by right | ⊙*=permitted on upper floors only | ⊙=requires conditional use approval | ⊙*=supplemental use regulations apply | --=prohibited
 ②=permitted by right where district includes "2" extension | ④=permitted by right where district includes "4" extension
 ⑤ = permitted except where district includes "V" extension | ⑥ = permitted with conditional use approval in NX2a district only
 ⑦ = permitted on major commercial corridors only

134-3. USES

Principal Uses

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TABLE 134-3.1-2. ALCOHOLIC LIQUOR, WINE OR BEER SALES

USE	Alcoholic Liquor Sales			Wine or Beer Sales		
	Districts					
	DX1, DX2, MX1, MX2, DXR	MX3, CX, P1, P2	RX1, RX2, NX2a	DX1, DX2, MX1, MX2, DXR	MX3, CX, P1, P2	RX1, RX2, NX2a
Retail Sales						
Limited	Not allowed	○ 40%/500 1,320		○ 40%/150	○ 40%/150	
General	40%/75	40%/75		40%/75	40%/75	
Large	40%/75	40%/75		40%/75	40%/75	
Fuel Station	Not allowed	○ 40%/500 1,320	Not allowed	40%/150	40%/150	Not allowed
Liquor Store		○ 500/ 1,320		Not allowed	○ 150	
Tobacco Store		○ 25%/500 1,320		○ 25%/150	○ 25%/150	
Restaurant	50%/75	50%/75	○ 50%/75	50%/75	50%/75	○ 50%/75
Bar	○ 150	○ 150	Not allowed	○ 150	○ 150	Not allowed
Other Uses with Sales for On-Premise Consumption	○	○ 40%/150		○	○ 40%/150	

Table Notes

○ = Uses identified with a ○ symbol are allowed only if reviewed and approved in accordance with the conditional use procedures of [134-6.4 of this chapter](#).

40% = no more than 40% of the gross receipts from sales from the premises may be derived from the sale of alcoholic liquor, wine, beer or tobacco products.

50% = at least 50% of the gross receipts must be derived from the sale of prepared food and food-related services. The sale of an alcoholic beverage is not the sale of prepared food and food-related services.

25% = no more than 25% of the gross receipts from sales from the premises may be derived from the sale of alcoholic liquor, wine or beer.

75 = the licensed premises occupied by such use must be separated by at least 75 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

150 = the licensed premises occupied by such use must be separated by at least 150 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

500 = the licensed premises occupied by such use must be separated by at least 500 feet from the property line of the lot where any church, school, public park or licensed child care facility as defined by Iowa Code Chapter 237A, are located. However, this condition is not applicable in the DX1, DX2, and DXR districts.

1,320 = the licensed premises occupied by such use must be separated by at least 1,320 feet from the property line of the lot where any other controlled use engaged in the sale of alcoholic liquor is located. In the DX1, DX2, and DXR districts, this condition is only applicable to liquor stores.

134-3.2 Use Classifications**3.2.1 GENERAL**

This section establishes and describes the use classification system used to classify principal uses in this zoning ordinance.

3.2.2 USE CATEGORIES

This zoning ordinance classifies principal land uses into six major groupings as described in sections 134-3.3 of this article through 134-3.8 of this article. These major groupings are referred to as "use categories." The use categories are as follows:

- A. Residential. See section 134-3.3 of this article.
- B. Public, Civic and Institutional. See section 134-3.4 of this article.
- C. Commercial. See section 134-3.5 of this article.
- D. Industrial. See section 134-3.6 of this article.
- E. Agricultural. See section 134-3.7 of this article.
- F. Other. See section 134-3.8 of this article.

3.2.3 USE SUBCATEGORIES

Each use category is further divided into more specific "subcategories." Use subcategories classify principal land uses and activities based on common functional, product or physical characteristics, such as the type and amount of activity, the type of customers or residents, and how goods or services are sold or delivered and site conditions.

3.2.4 SPECIFIC USE TYPES

Some use subcategories are further broken down to identify specific types of uses that are regulated differently than the subcategory as a whole.

3.2.5 DETERMINATION OF USE CATEGORIES AND SUBCATEGORIES

- A. The community development director is authorized to classify uses on the basis of the use category, subcategory and specific use type descriptions of this article.
- B. When a use cannot be reasonably classified into a use category, subcategory or specific use type, or appears to fit into multiple categories, subcategories or specific use types, the community development director is authorized to determine the most similar and thus most appropriate use category, subcategory or specific use type based on the actual or projected characteristics of the principal use or activity in relationship to the use category, subcategory and specific use type

descriptions provided in this article. In making such determinations, the community development director must consider:

1. The types of activities that will occur in conjunction with the use;
 2. The types of equipment and processes to be used;
 3. The existence, number and frequency of residents, customers or employees;
 4. Parking demands associated with the use; and
 5. Other factors deemed relevant to a use determination.
- C. If a use can reasonably be classified in multiple categories, subcategories or specific use types, the community development director is authorized to categorize each use in the category, subcategory or specific use type that provides the most exact, narrowest and appropriate "fit."

134-3.3 Residential Use Category

This category includes uses that provide living accommodations for one or more persons. The residential use subcategories are as follows.

3.3.1 HOUSEHOLD LIVING

Residential occupancy of a household unit by a household. When household units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered household living; they are considered a form of lodging. Households involving residential rental shall also comply with all requirements of chapter 60 of this code.

3.3.2 GROUP LIVING

Residential occupancy of a building or any portion of a building by a group other than a household, subject to compliance with the occupancy limitations set forth in the International Property Maintenance Code. The number of occupants per group living use shall not exceed the number of occupants permitted by the minimum area requirements of the occupancy limitations set forth in the International Property Maintenance Code or any more restrictive number of occupants specified in this section. Structures containing group living uses contain individual rooms with private or shared bathroom facilities and may also contain shared kitchen facilities, or common dining and living areas for residents. Residents may or may not receive any combination of care, training, or treatment, but those receiving such services must reside at the

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site. Examples of group living use types include assisted living facilities. When household units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered group living; they are considered a form of lodging. Group living uses involving rental shall also comply with all requirements of chapter 60 of this code.

A. Assisted Living Facility. An assisted living facility is a group living use consisting of individual rooms or household units where meals and assistance with daily living activities are provided to the residents, who may be elderly persons. Assisted living facilities must be licensed as a residential care facility, intermediate care facility or nursing facility under Iowa Code chapter 135C.1. For purposes of this chapter, hospice programs licensed under Iowa Code chapter 135J are considered assisted living facilities.

B. Correctional Placement Residence

1. A correctional placement residence is a group living use occupied by three or more persons who have been convicted of public offenses and who have been released to such facility during any period of:
 - a. Probation;
 - b. Work release while serving a sentence in a correctional institution; or
 - c. Assignment to the judicial district department of correctional services after receiving a deferred sentence.
2. Correctional placement residences are subject to the following supplemental use regulations:
 - a. The proposed location must provide residents with adequate access to public transportation.
 - b. A permit for such use is subject to reconsideration by the board of adjustment if at any time the community development director determines that the facility has become detrimental to the neighborhood.
 - c. Each bedroom within the residence must contain
 - i. Beds for no more than four residents,
 - ii. At least 80 square feet of usable floor space per bed, except a minimum of 60 square feet of usable floor space per bed is permitted for those correctional placement residences that

are constructed after July 1, 1991 and are owned or leased and administered by the fifth judicial district department of correctional services as part of a community-based correctional program under Iowa Code section 905, and

- iii. Usable floor space of at least eight feet in any major dimension. For purposes of calculating usable floor space, any parts of a room having less than seven feet of ceiling height may not be counted. Rooms in which beds are located may not be used for purposes other than bedrooms. The regulations of this paragraph do not apply to facilities licensed and regulated as health care facilities by the state department of public health.
- d. Each such facility must contain at least one lavatory and one toilet per 10 residents or fraction thereof and one tub or shower per 15 residents or fraction thereof. At least one bathroom with tub or shower, toilet and lavatory must be located on each floor that is occupied by resident bedrooms. The regulations of this paragraph do not apply to facilities licensed and regulated as health care facilities by the state department of public health.
- e. Each such facility must contain areas for dining and recreational purposes. When space is used for multi-purpose dining and recreational purposes, the area must include at least 30 square feet of floor area per resident bed. When space is provided exclusively for dining, the area must include at least 15 square feet of floor area per resident bed. When space is provided to be used exclusively for recreational purposes, the area shall total at least 15 square feet of floor area per resident bed and at least 50% of the required area must be in one room. The regulations of this paragraph do not apply to facilities licensed and regulated as health care facilities by the state department of public health.
- f. Each correctional placement residence must provide supervision 24 hours per day by persons responsible for the care of the residents.

- g. New correctional placement residences may not be located within 1,320 feet of any existing family home, home- and community-based services waiver recipient residence, correctional placement residence, or temporary shelter, except when such facilities are separated from by a freeway or river.

C. Family Home

1. A family home is any of the following:
 - a. A community-based residential home licensed as a residential care facility under Iowa Code chapter 135C, or as a child foster care facility under Iowa Code chapter 237, to provide room and board, personal care, rehabilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury, as defined by Iowa Code chapter 414.22, and any support personnel. A family home does not mean an individual foster care family home licensed under Iowa Code chapter 237.
 - b. A home for persons with disabilities as defined by Iowa Code chapter 504C.
 - c. An elder group home as defined by Iowa Code chapter 231B.
 - d. A residential facility, occupied by three or more persons under the supervision of one or more persons, wherein the individuals supervised have disabilities other than those specified in subsection (a) above that hinder their functioning in society and require the protection and supervision of a group environment to facilitate their becoming functional members of society.
2. New family homes owned and operated by public or private agencies must be dispersed throughout residential districts and may not be located within contiguous city block areas pursuant to Iowa Code section 414.22.

D. Home and Community-Based Services Waiver Recipient Residence

A single-household dwelling owned or rented by a recipient of a home and community-based services waiver approved by the federal government and implemented under the medical assistance program as defined in Iowa Code chapter 249A; or a multi-household dwelling which does not hold itself out to the public as a community-based residential

provider otherwise regulated by law, including but not limited to a residential care facility, and which provides household units to no more than four recipients of services under a home and community-based services waiver approved by the federal government and implemented under the medical assistance program, as defined in Iowa Code chapter 249A, at any one time.

E. Shelter, Temporary

1. A temporary shelter is a group living use that provides overnight or temporary living accommodations for individuals who do not have access to traditional or permanent housing or who require temporary living accommodations during periods of emergency or crisis. Temporary shelters may provide other services for residents, including counseling.
2. Temporary shelters are subject to the following supplemental use regulations:
 - a. Temporary shelters must contain at least 70 square feet of usable floor space per occupant. Bathrooms and areas having less than seven feet of ceiling height may not be counted.
 - b. Each such facility must contain at least one lavatory and one toilet per 10 residents or fraction thereof and one tub or shower per 15 residents or fraction thereof. At least one bathroom with tub or shower, toilet and lavatory must be located on each floor that is occupied by resident bedrooms.
 - c. New temporary shelters may not be located within 1,320 feet of an existing family home, home- and community-based services waiver recipient residence, correctional placement residence, or temporary shelter, except when such facilities are separated from by a freeway or river.

F. Group Living Not Otherwise Categorized

Any group living facility other than an assisted living facility, correctional placement residence, family home, home- and community-based services waiver recipient residence or temporary shelter. Group living uses not otherwise categorized are subject the following supplemental use regulations:

1. The proposed location must provide residents with adequate access to public transportation.
2. A permit for such use is subject to reconsideration by the board of adjustment if at any time the community development

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director determines that the facility has become detrimental to the neighborhood.

3. Each bedroom must have 80 square feet of usable floor space per bed and usable floor space of at least eight feet in any major dimension. For purposes of calculating usable floor space, any parts of a room having less than seven feet of ceiling height may not be counted. Rooms in which beds are located may not be used for purposes other than bedrooms.
4. Each such facility must contain at least one lavatory and one toilet per 10 residents or fraction thereof and one tub or shower per 15 residents or fraction thereof. At least one bathroom with tub, shower, toilet and lavatory must be located on each floor that is occupied by resident bedrooms.
5. Each such facility must contain areas for dining and recreational purposes. When space is used for multi-purpose dining and recreational purposes, the area must include at least 30 square feet of floor area per resident bed. When space is provided exclusively for dining, the area must include at least 15 square feet of floor area per resident bed. When space is provided to be used exclusively for recreational purposes, the area shall total at least 15 square feet of floor area per resident bed and at least 50% of the required area must be in one room.

134-3.4 Public, Civic and Institutional Use Category

This use category includes public, quasi-public and private uses that provide unique services that are of benefit to the public at-large. The public, civic and institutional subcategories are as follows.

3.4.1 AIRPORT

Facilities from which FAA-certified aircraft take off, land and operate, including customary accessory uses and structures.

3.4.2 ASSEMBLY

A facility that has organized services, meetings, or programs to benefit, educate, entertain, or promote discourse amongst the residents of the community.

- A. Place of Worship.** Buildings used for conducting organized religious services. Examples include synagogues, temples, mosques and churches.

- B. Place of Assembly.** Buildings used for conducting organized services, meetings, or programs. Examples include community centers and recreation centers.

3.4.3 CEMETERY

Any area that is or was open to use by the public in general or any segment thereof and is used or is intended to be used to inter or scatter remains. The cemetery use subcategory includes cemeteries and scattering grounds owned by the city and operated in accordance with chapter 34 of this code as well as cemeteries and scattering grounds not owned by the city. Cemeteries that are not owned by the city require conditional use approval and are subject to the supplemental use regulations of paragraph B of this subsection.

- A. Exclusions.** The following are not included in the cemetery use subcategory:

1. A private burial site where use is restricted to members of a family, if the interment rights are conveyed without a monetary payment, fee, charge, or other valuable form of compensation or consideration.
2. A private burial site where use is restricted to a narrow segment of the public, if the interment rights are conveyed without a monetary payment, fee, charge, or other valuable form of compensation or consideration.
3. A cemetery where there were 12 or fewer burials in the preceding 50 years, also referred to as a "pioneer cemetery".

- B. Supplemental Use Regulations.** Cemeteries that are not owned by the city are subject to the following supplemental use regulations:

1. Surveys and records must be maintained of each cemetery, including plots of every interment and scattering area and the location of benches and columbariums. Records must indicate the GPS coordinates, name, death, burial and birth dates, last address, and name and address of contact person.
2. A monument or marker of the name of all persons whose remains are scattered must be placed at the scattering site.
3. Written authorization must be obtained and kept for each person whose remains are scattered, including cremation benches and columbariums, to allow removal and relocation of the scattered remains.

4. The property must be maintained free of tall weeds and debris.
5. Monuments and other markers or structures, fences, walkways, paths, and roadways must be maintained in good and safe condition and appearance.
6. The perimeter of the cemetery must be fenced.
7. A portion of every lot sale, burial service fee, or scattering fee must be kept in a fund for maintenance of the cemetery grounds.
8. The scattering of remains is allowed only in cemeteries operating in compliance with the Iowa Cemetery Act. Cremated remains may only be scattered in a designated area with dimensions of no more than 20 feet by 20 feet.

3.4.4 COLLEGE OR UNIVERSITY

Academic institutions of higher learning that are accredited or recognized by the state and offer courses of general or specialized study.

3.4.5 FRATERNAL ORGANIZATION

The use of a building or lot by a not-for-profit, social or business organization that restricts access to its facility to bona fide, annual dues-paying members and their occasional guests and where the primary activity is a service not carried on as a business enterprise.

3.4.6 GOVERNMENT ADMINISTRATION

Uses in an enclosed building, customarily performed by local, state, or federal governmental offices and agencies, that focus on providing administrative, executive, judicial, legislative, management, professional or medical services.

3.4.7 HOSPITAL

Uses providing medical or surgical care to patients and offering inpatient, or overnight care.

3.4.8 LIBRARY OR CULTURAL EXHIBIT

Museum-like preservation and exhibition of objects in one or more of the arts and sciences, gallery exhibition of works of art or library collections of books, manuscripts and similar materials operated by a public or quasi-public agency other than the city for study and reading by the general public.

3.4.9 PUBLIC RECREATION AREAS

Recreational, social or multi-purpose uses associated with public parks and open spaces, including playgrounds, play fields, play courts and other non-commercial recreational facilities. This may include uses identified by section 134-3.5.18 of this article subject to

approval by the city.

3.4.10 POSTAL SERVICE

Post offices operated by the U.S. Postal Service. Mail sorting and distribution facilities are classified as trucking and transportation terminals.

3.4.11 SAFETY SERVICE

Establishments that provide fire, police or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations and police stations.

3.4.12 SCHOOL

Public and private schools at the primary, elementary, middle school or high school level that provide basic, compulsory education.

3.4.13 UTILITIES AND PUBLIC SERVICE FACILITIES

- A. **Minor.** Infrastructure services that need to be located in or close to the area where the service is provided. Minor utilities and public service facilities do not regularly have employees at the site and typically have few if any impacts on surrounding areas. Typical uses include: underground electric distribution substations; electric transformers; water conveyance systems; stormwater facilities and conveyance systems; telephone switching equipment and emergency communication warning/broadcast facilities.
- B. **Major.** Infrastructure services that typically have substantial visual or operational impacts on nearby areas. Typical uses include: above-ground electric distribution substations; wastewater management facilities and filtration systems; solar farms; wind farms.

134-3.5 Commercial Use Category

The commercial use category includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use subcategories are as follows.

3.5.1 ADULT ENTERTAINMENT

An adult bookstore, adult motel, adult motion picture arcade, adult motion picture theater or sexual encounter center.

- A. **Adult Bookstore.** An establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.

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B. Adult Motel. A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing sex acts or specified anatomical areas.

C. Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.

D. Adult Motion Picture Theater. An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas for observation by patrons therein.

E. Sexual Encounter Center. A business, agency or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in sex acts or exposing specified anatomical areas.

F. Supplemental Use Regulations. Adult entertainment uses are subject to the following supplemental use regulations.

1. Adult entertainment uses may not be established within 750 feet of:
 - a. Another adult entertainment use;
 - b. School, religious assembly, public recreation areas, public plazas or day care use;
 - c. A residential use.
2. For purposes of measuring compliance with these separation distance requirements, measurements must be taken on a direct line following the shortest distance from the property line of the proposed use to property line of lot occupied by the use, district or area from which separation is required.
3. The establishment of an adult entertainment use includes the opening of a new such use, the relocation of such use, the expansion of such a use or the conversion of an existing use to an adult entertainment use.
4. All building entries, windows, and other openings must be constructed, located, covered, or visually

screened in to prevent views into the interior of such building from any sidewalk, walkway, street or other public or semipublic area.

3.5.2 ANIMAL SERVICE

Uses that provide goods and services for care of animals, including the following specific use types, subject to the requirement that any outdoor boarding or outdoor exercise runways must be located at least 200 feet from any N'or NX1 district:

A. Breeding and Boarding. Breeding of four or more pets or companion animals six months in age or older and/or non-medical care provided for household pets in a location other than their primary residence. Typical examples include dog breeding kennels, kennel services, pet resorts/hotels, pet training centers, and pet day care centers.

B. Grooming. Grooming of dogs, cats and similar small household pets, including dog bathing and clipping salons and pet grooming shops.

C. Stable. Land or structure in which horses are kept, whether for personal enjoyment or for compensation.

D. Veterinary. Animal hospitals and veterinary clinics.

3.5.3 ASSEMBLY AND ENTERTAINMENT

Buildings and other facilities that accommodate public assembly for spectator-oriented sports, amusement, or entertainment events. Typical uses include event centers, fairgrounds, theaters, and cinemas.

A. Small. Assembly and entertainment, uses including event centers, with a seating or occupant capacity of less than 2,000 persons.

B. Large. Assembly and entertainment uses, including event centers, with a seating or occupant capacity between 2,000 and 10,000 persons.

C. Event Center. Civic or community auditoriums, sports stadiums and arenas, convention facilities and multi-purpose venues with a seating or occupant capacity of more than 10,000 persons.

3.5.4 BROADCAST OR RECORDING STUDIO

Uses that provide for audio or video production, recording or radio, television or internet broadcasting.

3.5.5 BUSINESS OR TRADE SCHOOL

Uses in an enclosed building that focus on teaching the skills needed to perform a particular job. Examples include schools of cosmetology, modeling academies, computer training facilities, vocational schools, administrative business training facilities and similar uses. Truck driving schools and other training facilities

that involve outdoor work or training activities are classified as industrial services.

3.5.6 COMMERCIAL SERVICE

Uses that provide low-impact repair, maintenance and improvement services to individual consumers and small businesses.

A. Consumer Maintenance and Repair Service.

Uses that provide maintenance, cleaning and repair services for consumer goods on a site other than that of the customer, including uses such as customers bring goods to the site of the repair/maintenance business. Typical uses include laundry and dry cleaning pick-up shops, tailors, taxidermists, dressmakers, shoe repair, small engine repair, picture framing shops, copy shops, locksmiths, vacuum repair shops, electronics repair shops and similar establishments, but not including vehicle maintenance and repair. Business that offer repair and maintenance service for large equipment or technicians who visit customers' homes or places of business are classified as an "Industrial service."

B. Personal Service. Uses that provide personal support and improvement services. Typical uses include barbers, hair and nail salons, tanning salons, travel agencies, and day spas. Also includes uses involved in providing tattoos, piercing and similar forms of body art.

C. Studio or Instructional Service. Uses that focus on providing individual or small group instruction or training in fine arts, music, dance, drama, fitness, language or similar activities. Also includes dance studios, ballet academies, yoga studios, martial arts instruction, tutoring, photography studios and other studios for artists that do not involve the use of power tools or power machinery.

3.5.7 DAY CARE

Uses providing care and supervision for more than eight children away from their primary residence for less than 24 hours per day.

3.5.8 DAY SERVICES, ADULT

An organized program providing a variety of health-related care, social services, and other related support services for 16 hours or less in a 24-hour period to two or more persons with a functional impairment on a regularly scheduled, contractual basis certified by the State of Iowa.

3.5.9 EATING AND DRINKING PLACES

An establishment that serves food or beverages for on- or off-premise consumption as its principal business.

A. Restaurant. An establishment that serves food or beverages for on- or off-premise consumption as its principal business. Typical examples of restaurant uses include principal use restaurants, cafés, cafeterias, ice cream or yogurt shops, donut shops and coffee shops. Any restaurant engaged in the sale of alcoholic liquor, wine or beer is subject to the regulations of section 134-3.8.1 of this article and Table 134-3.1-2 of this article.

B. Bar. Uses that cater primarily to adults, 21 years of age and older and that sell and serve alcoholic liquor, wine or beer for on-premise consumption as their principal business. Typical uses include bars, taverns, brewpubs, tasting rooms and nightclubs. All such uses are subject to the regulations of section 134-3.8.1 of this article and Table 134-3.1-2 of this article.

3.5.10 FINANCIAL SERVICE

Uses related to the exchange, lending, borrowing and safe-keeping of money. Automatic teller machines, kiosks and similar facilities that do not have on-site employees or amplified sound are not classified as financial service uses if they meet the criteria for classification as an accessory use pursuant to section 134-3.9 of this article. Typical examples of financial service use types are banks, credit unions, and the following types of personal credit establishments:

A. Bail Bonds. A use that provides surety and pledged money or property as bail for the appearance of persons accused in court.

B. Delayed Deposit Service. A use that for a fee does either of the following:

1. Accepts a check dated after the date it was written.
2. Accepts a check dated on the date it was written and holds the check for a period of time before deposit or presentment pursuant to an agreement with, or any representation made to, the maker of the check, whether express or implied.

C. Pawnbroker. A person or a use that makes loans or advancements upon pawn, pledge or deposit of personal property or that receives actual possession of personal property as security for loans, with or without a mortgage or bill of sale thereon, or that by advertisement, sign or otherwise holds himself or herself out as a pawnbroker.

D. Supplemental Use Regulations. Personal credit establishments are subject to the following supplemental use regulations.

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1. Personal credit establishments may not be established within 1,320 feet of another personal credit use;
2. Personal credit establishments may not be established within 250 feet of an N district, NX district, or residential use;
3. For purposes of measuring compliance with these separation distance requirements, measurements must be taken on a direct line following the shortest distance from the property line of the proposed use to property line of lot occupied by the use, district or area from which separation is required.
4. The establishment of a personal credit establishment includes the opening of a new such use, the relocation of such use, the expansion of such a use or the conversion of an existing use to an personal credit use.
5. Drive-in and drive-through service facilities are prohibited for personal credit establishments.

3.5.11 FUNERAL AND MORTUARY SERVICE

Uses that provide services related to the death of a human or domestic, household pet, including funeral homes and mortuaries.

3.5.12 LODGING

Uses that provide temporary lodging for less than 30 days where rents are charged by the day or by week. Lodging uses sometimes provide food or entertainment, primarily to registered guests. Examples of specific lodging use types include:

- A. Bed and Breakfast.** An owner-occupied household, other than a multi-household residential use, restaurant, motel, short-term rental or shelter for the homeless, where lodging and meals are provided for compensation to three or more persons in a house building type. A bed and breakfast may not be occupied by more persons than as allowed per bedroom or sleeping area in the occupancy limitations set forth in the International Property Maintenance Code. The owner-occupant shall be present and residing in the bed and breakfast for the duration of any rental of all or a part of the bed and breakfast.
- B. Hotel or Motel.** A lodging establishment other than a bed and breakfast and that may provide ancillary facilities and services, customary in a full-service hotel, as further regulated by the Iowa Code.
- C. Short-Term Commercial Rental.** The use of a household unit for commercial lodging; also referred to in this chapter as short-term rental. A household unit, or part of a household unit, other

than a restaurant, motel, temporary shelter, or bed and breakfast, where lodging is provided for compensation for one or more persons for periods of less than 30 consecutive days. All short-term rentals are subject to the following supplemental regulations, together with such additional special conditions as may be reasonably required by the board of adjustment:

1. The owner or authorized management agent of a short-term rental and all short-term rental guests may not use, or allow another to use, a short-term rental for any assembly use.
2. The owner of a short-term rental shall provide the community development director with the name, physical address, email address, tax identification number, and telephone number of the owner and any individual over the age of 18 who shall be designated as the "authorized management agent" responsible for maintenance of the property and for responding to communications during the duration of a short-term rental. If there is a change related to an authorized management agent, the owner must provide updated or new information to the community development director in writing within three business days following such change.
3. Short-term rentals shall include one or more adults 21 years of age or older in the renting party, and shall be limited to a single party of individuals.
4. The owner or authorized management agent of a short-term rental and all short-term rental guest may not produce sound in excess of the city's noise control ordinance, including the use of sound equipment.
5. The owner or authorized management agent of a short-term rental shall provide a packet for all short-term rental guests with the following information, and provide an updated copy that remains in the unit:
 - a. Emergency contact information for the owner and authorized management agent.
 - b. Emergency and non-emergency numbers for City of Des Moines police and fire.
 - c. Trash pickup schedule
 - d. Any parking restrictions for on-street and off-street parking, including the city's snow ordinance
 - e. Occupancy limits for the household unit or structure.

6. The owner or authorized management agent of a short-term rental shall annually provide owners and occupants of immediately adjoining properties, and of adjacent properties separated from the short-term rental unit by public right-of-way, with emergency contact information for the owner and authorized management agent.
7. Each owner and authorized management agent of a short-term rental shall have a duty to comply with all applicable federal, state and local laws and regulations, including but not limited to hotel/motel licensing, and collection and payment of taxes such as hotel accommodation taxes and property taxes, and shall be required to show proof of payment of such taxes within 15 days of request by the community development director.
8. The owner and authorized management agent of a short-term rental shall maintain current guest registration records which contain the following information about each guest:
 - a. Name;
 - b. Address;
 - c. Signature;
 - d. Copy of driver's license; and
 - e. Dates of accommodation.
9. A short-term rental may not be occupied by more persons than as allowed per bedroom or sleeping area in the occupancy limitations set forth in the International Property Maintenance Code.
10. A maximum of one short-term rental may be allowed per single-household detached structure. The short-term rental shall be owner-occupied or associated with an owner-occupied principal residential structure, or tenant-occupied or associated with a tenant-occupied principal residential structure with the signed written consent of the property owner. The owner-occupant or tenant-occupant, as applicable, shall reside in the single-household detached structure containing or associated with the short-term rental as his or her primary residence for no fewer than 245 days annually, with each annual period commencing on the anniversary of the date of filing of the board of adjustment decision and order approving the conditional use.
11. A maximum of one short-term rental may be allowed per two-household attached structure or per condominium within a structure. The short-term rental shall be owner-occupied or associated with an owner-occupied principal residential structure, or tenant-occupied or associated with a tenant-occupied principal residential structure with the signed written consent of the property owner. The owner-occupant or tenant-occupant, as applicable, shall reside in the two-household attached structure or condominium within a structure containing or associated with the short-term rental as his or her primary residence for no fewer than 245 days annually, with each annual period commencing on the anniversary of the date of filing of the board of adjustment decision and order approving the conditional use.
12. A maximum of 10% of the total number of household units located in a multi-household attached structure consisting of individually owned condominiums may be allowed per such multi-household attached structure. Said percentage shall be rounded down to the lowest whole number including zero. Each short-term rental shall be owner-occupied, or tenant-occupied with the signed written consent of the condominium owner. The owner-occupant or tenant-occupant, as applicable, shall reside in the condominium containing the short-term rental as his or her primary residence for no fewer than 245 days annually, with each annual period commencing on the anniversary of the date of filing of the board of adjustment decision and order approving the conditional use.
13. A maximum of 10% of the total number of household units located in a multi-household attached structure not consisting of individually owned condominiums may be allowed per such multi-household attached structure. Said percentage shall be rounded down to the lowest whole number including zero. Each short-term rental shall be applied for and operated by the owner of the multi-household attached structure, or the owner's authorized management agent.
14. Short-term renters shall be provided, at a minimum, the exclusive use of a bedroom and shared use of a full bathroom for the duration of any such rental.
15. Renting of each approved short-term rental shall be limited to no more than 120 days' cumulative annual rentals, with each annual rental period commencing on the anniversary of the date of filing of the board of adjustment decision and order approving the conditional use. The 120-day cumulative annual rental limit is applicable across any and all hosting platforms or other

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means of advertising the short-term rental, rather than per hosting platform or advertising method. Notwithstanding the foregoing, short-term rentals located within owner-occupied single-household detached structures, and short-term rentals located on the same lot as and associated with an owner-occupied principal residential structure, are not subject to the 120-day cumulative annual rental limitation provided that the owner-occupant is present for the duration of any short-term rental(s) occurring after said 120-day limitation has been reached within each annual rental period.

16. The owner or authorized management agent of a short-term rental shall post a clearly printed sign inside the short-term rental unit on the inside of the front door that provides information regarding the location of all fire extinguishers in the unit and building, gas shut off valves, fire exits, and pull fire alarms.
17. The owner of a short-term rental shall maintain liability insurance appropriate to cover the short-term rental use in the aggregate of not less than \$500,000 (U.S. dollars) or shall conduct each short-term rental transaction through a hosting platform that provides equal or greater coverage. Such coverage shall defend and indemnify the owner, as named additional insured, and any tenants in the building for their bodily injury and property damage arising from the short-term rental use.
18. In the event that a short-term rental unit or the property on which it is located is subject to any unresolved building, electrical, plumbing, mechanical, fire, health, housing, police, or zoning code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and desist orders, or correction notices, the short-term rental use shall be prohibited until such enforcement is complete and all violations are corrected to the approval of the community development director.
19. Any form of advertising of a short-term rental, including but not limited to listing on a hosting platform, is prohibited until a conditional use is approved by the board of adjustment. Any form of advertising of a short-term rental, including but not limited to listing on a hosting platform, is further prohibited at any time that the short-term rental use is not in full compliance with one or more of the general requirements for short-term rentals stated herein or with one

or more conditions established in the board of adjustment conditional use approval.

20. The owner or authorized management agent of a short-term rental shall maintain records demonstrating compliance with this section. Records shall be made available to the community development director upon request.

3.5.13 OFFICE

Uses in an enclosed building, customarily performed in an office, that focus on providing executive, management, administrative, professional or medical services. Examples of specific use types include:

- A. **Business or Professional.** Office uses for companies and non-governmental organizations. Examples include corporate office, law offices, architectural firms, insurance companies and other executive, management or administrative offices for businesses and corporations. Also includes uses engaged in scientific research and testing services leading to the development of new products and processes that do not involve the mass production, distribution or sale of such products.
- B. **Medical.** Office or clinic uses related to diagnosis and treatment of human patients' illnesses, injuries and physical maladies that can be performed in an office setting with no overnight care. Typical uses include offices of physicians, dentists, psychiatrists, psychologists and chiropractors. Surgical, rehabilitation and other medical centers that do not involve overnight patient stays are included in this use subcategory, as are medical and dental laboratories, unless otherwise expressly indicated.

3.5.14 PARKING, NON-ACCESSORY.

- A. A lot that does not contain a permitted building of more than 1,000 square feet, is not used for open space, and is almost exclusively used for the parking of vehicles, whether a surface lot or a parking structure.
- B. When a conditional use permit is required, a non-accessory parking facility shall meet the following requirements:
 1. Two or more principal parking facilities shall not be located directly abutting one another.
 2. Refer to section [135-2.17 of this code](#) for principal use parking structure building type.

3.5.15 RETAIL SALES

Uses involving the sale, lease or rental of new or used goods to the ultimate consumer. Examples of specific retail use types include retail sales of convenience goods, consumer shopping goods and building supplies

and equipment.

- A. Limited Retail Sales.** Retail sales establishments occupying no more than 12,000 square feet of floor area.
- B. General Retail Sales.** Retail sales establishments occupying more than 12,000 square feet of floor area but no more than 40,000 square feet of floor area.
- C. Large-Format Retail Sales.** Retail sales establishments occupying more than 40,000 square feet of floor area.

3.5.16 SELF-SERVICE STORAGE

An enclosed use that provides separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses, including, if any, caretaker's or supervisor's quarters as an accessory use. Facilities are designed and used to accommodate interior access to storage lockers or drive-up access from passenger vehicles. Self-service storage does not allow storage of junk, explosive or flammable materials, and other noxious or dangerous materials.

A. Supplemental Use Regulations.

Self-service storage uses are subject to the following in MX2 and MX3 districts:

1. The self-storage use shall be permitted only within the interior of converted pre-existing buildings or the interior of building types allowed in the applicable zoning district, in accordance with chapter 135 of this code.
2. No external storage or additional buildings shall be permitted as part of the self-storage use.
3. The landscape regulations of chapter 135 of this code shall be required of any self-storage use of property, whether associated with a pre-existing building or an allowed building type.

3.5.17 SIGN, GENERAL ADVERTISING

A large outdoor advertising structure, with a minimum sign face of 300 square feet in area and a maximum sign face of 672 square feet in area, located along major commercial corridors identified in article 5 of this chapter to provide information to the general public in exchange for compensation. General advertising signs are subject to sections [134-5.7](#), [134-5.8](#), and [134-7.3 of this chapter](#).

3.5.18 SPORTS AND RECREATION, PRIVATE/PARTICIPANT

A commercial facility for provision of sports or recreation primarily by and for participants. Spectators are incidental. Examples include bowling alleys,

health clubs, skating rinks, bingo halls, casinos, billiard parlors, driving ranges and miniature golf courses, archery ranges, batting cages, go-cart tracks, private golf courses and recreational fields, and private open spaces.

- A. Indoor.** Participant sports and recreation uses conducted entirely within buildings.
- B. Outdoor.** Participant sports and recreation uses conducted wholly or partially outside of buildings.

3.5.19 VEHICLE SALES AND SERVICE

A. Fuel Station

1. A use engaged in retail sales of vehicle fuels for personal vehicles, other than fleet fueling facilities and truck stops, which are regulated as industrial service uses and which may include retail sales of convenience items.
2. Fuel stations are subject to the applicable building type regulations in [article 2 of chapter 135 of this code](#) and accessory structure regulations in section [135-2.22.3 of this code](#).

B. Vehicle Sales. Uses primarily engaged in the sales of personal, consumer-oriented motor vehicles, such as automobiles, pick-up trucks, motorcycles and personal watercraft. The sale of large trucks, construction equipment, agricultural equipment, aircraft or similar large vehicles are regulated as trucking and transportation terminals pursuant to section [134-3.6.3 of this article](#). Vehicle sales are also subject to sections [134-6.3.12 of this chapter](#) and [135-2.1.4.D of this code](#).

C. Vehicle Rentals. Uses primarily engaged in the rental of personal, consumer-oriented motor vehicles, such as automobiles, pick-up trucks, motorcycles and personal watercraft. The rental of large trucks, construction equipment, agricultural equipment, aircraft or similar large vehicles are regulated as trucking and transportation terminals pursuant to section [134-3.6.3 of this article](#). Vehicle rentals are also subject to sections [134-6.3.12 of this chapter](#) and [135-2.1.4.D of this code](#).

D. Vehicle Maintenance and Repair, Minor. Uses that repair, install or maintain the mechanical components of automobiles, trucks, vans, trailers or motorcycles or that wash, clean or otherwise protect the exterior or interior surfaces of such vehicles. Minor vehicle maintenance and repair uses are subject to the following supplemental use regulations:

1. No more than three vehicles per bay may be stored outdoors while awaiting repair or pick-up.

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2. No long-term outdoor storage of vehicles beyond 72 hours is allowed.
3. Vehicles awaiting repair or pick-up may not occupy required parking spaces.
4. All vehicles must have current license tags.
5. Outdoor storage of junk, debris, tires or vehicle parts is prohibited.
6. All repairs must occur within a completely enclosed building.

E. Vehicle Maintenance and Repair, Major. Uses that primarily conduct motor vehicle body work and repairs or that apply paint to the exterior or interior surfaces of motor vehicles by spraying, dipping, flow-coating or other similar means. Major vehicle maintenance and repair uses are subject to the following supplemental use regulations:

1. No more than three vehicles per bay may be stored outdoors while awaiting repair or pick-up.
2. No long-term outdoor storage of vehicles beyond 72 hours is allowed.
3. Vehicles awaiting repair or pick-up may not occupy required parking spaces.
4. Vehicles awaiting repair or pick-up must be screened from view of rights-of-way.
5. All vehicles must have current license tags.
6. Outdoor storage of junk, debris, tires or vehicle parts is prohibited.
7. All repairs must occur within a completely enclosed building.

building with no outdoor operations, storage or regular commercial truck parking or loading, but which must include retail sales of goods produced on-site with a sales area of at least 625 square feet, with direct access from the main building entrance, and may include residential use.

B. Limited. Uses are artisan without retail sales or residential use, and uses that process, fabricate, assemble, treat, or package finished parts or products without the use of explosive or petroleum materials in a completely enclosed building. This subcategory does not include the assembly of large equipment and machinery and has very limited external impacts in terms of noise, vibration, odor, hours of operation, and traffic. Common examples include apparel manufacturing, bakery products manufacturing, bottling plants, cabinet making, ice manufacturing, microbreweries, micro distilleries, musical instrument manufacturing, newspaper printing and binderies.

C. General. Uses that process, fabricate, assemble, or treat materials for the production of large equipment and machines as well as fabrication and production uses that because of their scale or method of operation may produce odors, dust, noise, vibration, truck traffic or other external impacts that are detectable beyond the property lines of the subject property but not a nuisance level. Common examples include dairy products manufacturing, mattress manufacturing and assembly, crematoriums, underground storage of flammable and combustible liquids in excess of 30,000 gallons, and sawmill and planing mill, including manufacture of wood products not involving chemical treatment.

D. Intensive. Uses that regularly use hazardous chemicals or procedures or produce hazardous byproducts, including the following: manufacturing of acetylene, cement, lime, gypsum or plaster-of-paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, radioactive materials, and above ground storage of flammable and combustible liquids in excess of 1,000 gallons. This subcategory also includes petrochemical tank farms, gasification plants, foundries, chrome plating, smelting, electroplating, fiberglass manufacturing, animal slaughtering, oil refining, asphalt and concrete plants, flour mills, paper products manufacturing, and tanneries. Intensive industrial uses have high potential for external impacts on the surrounding area in terms of noise, vibration, odor, hours of operation, and traffic.

134-3.6 Industrial Use Category

The industrial use category includes uses that produce goods from extracted materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced. It also includes uses that store or distribute materials or goods in large quantities and uses involved in basic industrial processes.

3.6.1 FABRICATION AND PRODUCTION

Uses primarily involved in the manufacturing, processing, fabrication, packaging, or assembly of goods made for the wholesale market, for transfer to other plants, or for firms or consumers.

A. Artisan. Uses involved in the creation of art works or custom goods by hand manufacturing involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed

E. Supplemental Use Regulations.

Fabrication and production uses are subject to the following:

1. No part of the use may be a residential use, except for artisan uses.
2. No odors, gases, noise, vibration, pollution of air, water or soil, or lighting shall be emitted onto any adjoining property so as to create a nuisance.
3. The owner or occupant must provide the community development director with an acceptable written statement describing the use and the nature of any odors, gases, noise, vibration, and other environmental impacts that may be generated by such use; and certifying that the use upon the property will be operated in a manner that does not permit any odors, gases, noise, vibration, pollution of air, water or soil, or lighting to be emitted onto any adjoining property so as to create a nuisance.
4. The use shall be operated in strict conformance with the written statement provided to the community development director.

3.6.2 INDUSTRIAL SERVICE

Uses engaged in the maintenance, repair or servicing of industrial, business or consumer machinery and materials.

A. Light.

Uses involved in repair and maintenance, but not involving outdoor storage areas. Examples include janitorial, carpet cleaning, extermination, plumbing, electrical, window cleaning and similar building maintenance services.

B. Intensive.

Light uses involving outdoor storage areas and uses involved in repair and maintenance directly to business consumers or involving large equipment. Examples include welding shops; machine shops; publishing and lithography; redemption centers; laundry, dry-cleaning, and carpet cleaning plants; photofinishing laboratories and maintenance and repair services that are not otherwise classified.

C. Supplemental Use Regulations.

Industrial service uses are subject to the following:

1. No part of the use may be a residential use.
2. No odors, gases, noise, vibration, pollution of air, water or soil, or lighting shall be emitted onto any adjoining property so as to create a nuisance.

3. For intensive uses, the owner or occupant must provide the community development director with an acceptable written statement describing the use and the nature of any odors, gases, noise, vibration, and other environmental impacts that may be generated by such use; and certifying that the use upon the property will be operated in a manner that does not permit any odors, gases, noise, vibration, pollution of air, water or soil, or lighting to be emitted onto any adjoining property so as to create a nuisance.
4. For intensive uses, the use shall be operated in strict conformance with the written statement provided to the community development director.
5. For intensive uses, all outdoor storage areas shall be designed to allow no part of any stored material, vehicles or equipment to encroach into the required setbacks.
6. Outdoor storage of inoperable or unsafe vehicles in quantities constituting a junk or salvage yard is prohibited.

3.6.3 STORAGE, DISTRIBUTION AND WHOLESALING

Principal uses involved in the storage or movement of goods for themselves or other firms or the sale, lease, or rental of goods primarily intended for industrial, institutional, or commercial businesses.

A. Equipment and Materials Storage, Outdoor.

Uses, excluding junk and salvage yards, that constitute outdoor storage of equipment, products or materials, whether or not stored in containers. All such uses shall comply with the requirements of subsections [A](#), [C](#), [D](#), [E](#), and [F](#) of section [134-3.9.6 of this article](#).

B. Trucking and Transportation Terminals. Uses engaged in the sales, rental, dispatching, servicing and repair, or long-term or short-term storage of large trucks, buses, construction equipment, agricultural equipment and similar large vehicles, including parcel service delivery vehicles, taxis and limousines. Also includes uses engaged in the moving of household or office furniture, appliances and equipment from one location to another, including the temporary on-site storage of those items.

C. Warehouse. Uses conducted within a completely enclosed building that are engaged in long-term and short-term storage of goods and that do not meet the definition of "self-service storage" use or a "trucking and transportation terminal."

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D. Wholesale Sales and Distribution. Uses engaged in the wholesale sales, bulk storage and distribution of goods. Such uses may also include incidental retail sales and wholesale showrooms. Expressly includes the following uses: bottled gas and fuel oil sales, flea markets, ice distribution centers, monument sales, portable storage building sales, vending machine sales, auctioneers, and frozen food lockers.

E. Supplemental Use Regulations.

Storage, distribution, and wholesaling uses are subject to the following:

1. Outdoor storage of inoperable or unsafe vehicles in quantities constituting a junk or salvage yard is prohibited.
2. No part of the use may be a residential use.
3. No odors, gases, noise, vibration, pollution of air, water or soil, or lighting is emitted onto any adjoining property so as to create a nuisance.
4. The owner or occupant has provided the community development department with a written statement upon a form acceptable to the community development director which describing the use to occur upon the property and the nature of any odors, gases, noise, vibration, and other environmental impacts that may be generated by such use, and which certifying that the use upon the property will be operated in a manner that does not permit any odors, gases, noise, vibration, pollution of air, water or soil, or lighting to be emitted onto any adjoining property so as to create a nuisance.
5. The use shall be operated in strict conformance with the statement provided pursuant to paragraph 4, above.

3.6.4 JUNK OR SALVAGE YARD

A. Description. A building or open area where waste, scrap, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, crushed, processed, recycled, or handled for reclamation, disposal or other similar purposes, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles encompassing either:

1. An area of 200 square feet or more; or
2. Two or more inoperable motor vehicles, or used parts and materials thereof, which taken together equal the bulk of two or more motor vehicles.

B. Supplemental Use Regulations. Junk or salvage yard uses are subject to the following:

1. All driveways, parking lots and areas used for temporary storage of vehicles must be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces approved by the city engineer so as to provide a durable and dustless surface, and must be graded to properly drain all surface water accumulation within the area.
2. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials must be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, so as to effectively screen such areas from public view. If such area abuts an area upon the adjoining property that is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.
3. Junk and salvage materials may not be stacked higher than the perimeter fence within 75 feet of the fence and may not be stacked higher than 25 feet anywhere on the site.
4. The dismantling or repair of vehicles shall occur only upon a impermeable surface with adequate provision for the collection and disposal of fluids and wastes.
5. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material, which is screened from the adjoining public right-of-way.
6. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.

3.6.5 MINING OR MINERAL PROCESSING

The mining or extraction of mineral or aggregate resources from the ground for off-site use. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil or gas.

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134-3.7 Agricultural Use Category

3.7.1 COMMUNITY AND URBAN GARDEN

Areas that are managed and maintained by an individual or a group of individuals to grow and harvest food crops or non-food crops (e.g., flowers). A community garden area may be divided into separate garden plots for cultivation by one or more individuals or may be farmed collectively by members of the group. Community gardens are subject to the following supplemental use regulations:

- A. Unless permitted in the subject zoning district or approved as a conditional use, on-site sales of community garden products or other items is prohibited.

- B. All equipment must be stored in a completely enclosed building.
- C. The community garden site must be designed and maintained to prevent any chemical pesticide, fertilizer or other garden waste from draining on to adjacent properties.
- D. On-site trash, recyclable and compost containers must be located and maintained as far as practicable from residential household units located on other lots.
- E. A sign must be posted on the subject property identifying the name and phone number of the property owner or the owner's agent. The sign must be at least four and no more than six square feet in area and be posted so that it is legible from the public right-of-way.
- F. The property must be maintained free of tall weeds and debris. Dead garden plants must be regularly removed.
- G. The perimeter of all community and urban gardens must be fenced.
- H. Gardens that are accessory to a household living use are exempt from this section.
- I. Any animal husbandry shall be in compliance with chapter 18 of this code.

3.7.2 CROP PRODUCTION

An area managed and maintained by an individual, group or business entity to grow crops.

3.7.3 NURSERY OR TRUCK FARM

The propagation and growth of trees or food or non-food crops for wholesale or retail sales and distribution. Does not include on-site retail sales unless such sales are otherwise allowed in the subject zoning district. Typical uses include plant nurseries, the growing of vegetables and non-food crops primarily for local wholesale and retail sales.

134-3.8 Other Use Category

This category includes uses that do not fit the other use categories.

3.8.1 LIQUOR, WINE AND BEER SALES

A. Description.

The retail sale of alcoholic liquor, wine and beer is permitted only in the zoning districts and subject to the conditions indicated in Table 134-3.1-2 of this article.

B. Conditional Use Approval Criteria

Conditional use approval is required for the use of a premises for the sale of alcoholic liquor, wine or beer, under the circumstances identified in indicated in Table 134-3.1-2 of this article. The board of adjustment is authorized to grant conditional use approval for such uses only when the business, operated in conformance with such reasonable conditions as may be imposed by the board, satisfies the following criteria:

1. The business conforms with the conditions identified in indicated in Table 134-3.1-2 of this article.
2. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area.
3. The business is sufficiently separated from the adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the adjoining residential uses.
4. The business will not unduly increase congestion on the streets in the adjoining residential area.
5. The operation of the business will not constitute a nuisance.

C. General Conditions. Any conditional use approval granted by the board of adjustment for the use of a premises for the sale of alcoholic liquor, wine and beer is subject to the following general conditions, together with such additional special conditions as may be reasonably required by the board of adjustment to ensure that the conditional use review approval criteria of paragraph B of this subsection, are satisfied:

1. Any parking area provided for the use of customers of the business must be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site must be landscaped and illuminated so as to minimize hiding places for possible criminal activity.
2. The business shall comply with the noise control regulations of article IV of chapter 42 of this code. Outside speakers and amplified sound is prohibited except when used in compliance with a type E sound permit.
3. Any such business must comply with the following requirements:

Other Use Category

- a. Every limited retail sales establishment, fuel station and tobacco store shall display alcoholic liquor only in a locked case or behind a counter accessible only to employees. Any other business selling alcoholic liquor for off premises consumption shall either:
 - i. Display alcoholic liquor only in a locked case or behind a counter accessible only to employees;
 - ii. Employ an electronic security cap or tag system on all containers of alcoholic liquor on display; or
 - iii. Have more than one employee on duty at all times the business is open to the public.
- b. Conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
- c. Institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.
- d. Not dispense alcoholic beverages from a drive-through window.
4. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.
5. The conditional use approval is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions of the conditional use approval.
6. If the zoning enforcement officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions of the conditional use approval, the zoning enforcement officer may apply to the board of adjustment to reconsider conditional use approval for such business. A copy of such application and notice of the hearing before the board on such application shall be provided to the owner of such business at least 30 days in advance and shall also be provided to all owners of record of property within 250 feet of the subject property. If the board of adjustment finds that the operation of such business exhibits a pattern of violating the conditions of

the conditional use, the board shall have the authority to amend or revoke the conditional use approval.

D. Report of Findings. Upon reasonable suspicion that any fuel station, or retail sales establishment, or other uses with sales for on-premise consumption excluding restaurants and bars, derives more than 40% of its gross receipts from sales, from the sale of alcoholic liquor, wine, beer or tobacco products, the zoning enforcement officer may require that the owner or operator of the business demonstrate within 45 days that during the prior six months no more than 40% of its gross receipts from sales are derived from the sale of alcoholic liquor, wine, beer or tobacco products. In such event it shall be presumed that more than 40% of the gross receipts from sales are derived from the sale of alcoholic liquor, wine, beer or tobacco products, which presumption may be overcome by the business timely furnishing a report of findings showing compliance with the percentage requirements of this section for fuel station and retail sales establishments, prepared and verified by a certified public accountant as the result of an agreed-upon procedures engagement, identifying the total dollar volume of all receipts, and separately identifying the total dollar volume of gross receipts derived from the sale of alcoholic beverages from the sale of tobacco products, and from the sale of all other merchandise and food exclusive of alcoholic beverages and tobacco products, from the business premises in the preceding six months.

E. Report of Findings - Restaurant. Upon reasonable suspicion that any restaurant does not derive at least 50% of its gross receipts from the sale of prepared food and food-related services, the zoning enforcement officer may require that the owner or operator or the restaurant demonstrate within 45 days that during the prior six months at least 50% of its gross receipts were derived from the sale of prepared food and food-related services. In such event it shall be presumed that less than 50% of the restaurant's gross receipts are derived from the sale of prepared food and food-related services, which presumption may be overcome by the business timely furnishing a report of findings showing compliance with the percentage requirements of this section for restaurants, prepared and verified by a certified public accountant as the result of an agreed-upon procedures engagement, identifying the total dollar volume of all receipts, and separately identifying the

total dollar volume of gross receipts derived from the sale of alcoholic beverages and from the sale of prepared food and food-related services exclusive of alcoholic beverages and tobacco products, from the business premises in the preceding six months.

F. Report of Findings - Tobacco Store. Upon reasonable suspicion that any tobacco store derives more than 25% of its gross receipts from sales from the sale of alcoholic liquor, wine or beer, the zoning enforcement officer may require that the owner or operator of the business demonstrate within 45 days that during the prior six months no more than 25% of the gross receipts from sales were derived from the sale of alcoholic liquor, wine or beer. In such event it shall be presumed more than 25% of its gross receipts from sales are derived from the sale of alcoholic liquor, wine or beer, which presumption may be overcome by the business timely furnishing a report of findings showing compliance with the percentage requirements of this section for tobacco stores, prepared and verified by a certified public accountant as the result of an agreed-upon procedures engagement, identifying the total dollar volume of all receipts, and separately identifying the total dollar volume of gross receipts derived from the sale of alcoholic beverages from the sale of tobacco products, and from the sale of all other merchandise and food exclusive of alcoholic beverages and tobacco products, from the business premises in the preceding six months.

G. Prohibited Accounting for Alcoholic Beverages. The sale of an alcoholic beverage and any of its component ingredients whether mixed into one beverage or sold separately to the same customer, regardless of intent, shall not be divided for accounting purposes under this chapter.

H. Effective Date. All fuel stations, retail sales establishments, tobacco stores and restaurants that have not continuously held an alcoholic liquor license or a beer or wine permit since July 1, 2012, shall comply with the requirements of paragraphs A., B., C., D., E., F., and G. of this subsection. Any fuel station, retail-sales establishment, tobacco store or restaurant which has continuously held an alcoholic liquor license or a wine or beer permit since July 1, 2012, shall comply with paragraphs A., B., C., D., E., F., and G. of this subsection, exclusive of any changed separation requirements, commencing on December 31, 2013, and prior to that date shall continue to be subject to the general regulations regarding nonconforming uses, as set forth in section 134-7.2 of this article.

3.8.2 CONSUMER FIREWORKS SALES

- A. Retail sales of Consumer Fireworks, as defined in chapter 46 of this code, shall be permitted only in those zoning districts where such sales are specifically classified as permitted uses by applicable district regulations.
- B. In each zoning district where retail sales of Consumer Fireworks, as defined in chapter 46 of this code, are classified as a permitted use, such sales shall be permitted only as a principal permitted use and not as an accessory use.
- C. In each zoning district where retail sales of Consumer Fireworks, as defined in chapter 46 of this code, are classified as a permitted use, such sales shall be undertaken in full compliance with chapter 46 of this code.

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134-3.9 Accessory Uses

3.9.1 GENERALLY APPLICABLE REGULATIONS

- A. Accessory Uses Allowed.** Accessory uses are allowed only in connection with lawfully established principal uses.
- B. Allowed Uses.** Allowed accessory uses are limited to those expressly regulated in this section as well as those that are determined appropriate by the community development director. In making a determination, the community development director may consider the following criteria:
1. They are customarily found in conjunction with the principal use of the subject property;
 2. They are subordinate and clearly incidental to the principal use of the property; and

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3. They serve a necessary function for or contribute to the comfort, safety or convenience of occupants of the principal use and the community.

C. Time of Construction and Establishment.

Accessory uses may be established only after the principal use of the property is in place.

- #### D. Location.
- Accessory uses must be located on the same lot as the principal use to which they are accessory, unless otherwise expressly stated.

- #### E. Accessory Structures.
- See section [135-2.22 of this code](#) for regulations governing accessory structures.

- #### F. Connection to a Principal Structure.
- A structure which might otherwise be considered an accessory building, but which is connected to the principal structure by a breezeway or other extension of the principal structure containing a functional roof and floor shall, for the purposes of this chapter:

1. Lose its status as an accessory building;
2. Become part of the principal structure; and,
3. Shall be subject to all restrictions applicable to a principal structure.

3.9.2 ACCESSORY HOUSEHOLD UNITS (AHU)

- #### A. Where Allowed.
- Accessory household units (AHUs) are permitted as of right in N and NX districts that allow two, three or four household units on a single lot. An owner of the property shall reside in one of the household units on the property.

B. Number Allowed

1. No more than one AHU is permitted on a single lot.
2. The total number of principal and accessory households on the subject lot may not exceed the permitted number of households allowed on the lot by the applicable zoning district.

C. Location

AHUs may be located internally within the principal dwelling unit or in a detached accessory outbuilding pursuant to section [135-2.22 of this code](#).

D. Other Regulations

1. Only one entrance to a house containing an accessory household unit(AHU) may be located on a facade that faces a street.
2. The floor area of an AHU may not exceed 50% of the floor area within the principal household unit.

3.9.3 DRIVE-IN AND DRIVE-THROUGH USES

- #### A. Description.
- A use accessory to a principal use that offers service directly to occupants of motor vehicles. Such uses are typically associated with restaurants, banks and pharmacies.

- #### B. Exceptions.
- Automatic teller machine kiosks and similar drop-off or pick-up facilities that do not have on-site employees or amplified sound are not classified as drive-in or drive-through facilities if they meet the criteria for classification as an accessory use.

- #### C. Structure.
- See the accessory structure regulations of section [135-2.22.3 of this code](#).

3.9.4 HOME OCCUPATIONS

- #### A. Description.
- Home occupations are business activities or professions conducted wholly or partly within a property as an accessory use to an allowed household living principal use.

- #### B. General Regulations for All Home Occupations.
- All home occupations are subject to the following regulations:

1. The proposed location, design, construction, and operation of the use adequately safeguards the health, safety, and general welfare of persons residing or working adjoining or surrounding property.
2. The use must not unduly increase congestion in the streets, or public danger of fire, safety or flooding.
3. The use must not diminish or impair established nearby property values.
4. The use shall be clearly incidental to or secondary to the residential use on the premises.
5. The use shall not cause or produce noise, vibration, smoke, dust, odor, or heat or any other impact of a type or quantity not in keeping with the residential character of the neighborhood.
6. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted material of a type or quantity not ordinarily used for household purposes shall be used or stored on the premises, and the applicant must identify the proper disposition of any hazardous waste. No activity will be allowed which is hazardous to the public health, safety or welfare.

7. No outside operation, storage or display of materials or products shall occur.
8. No more than 50% of the gross floor area of the building or accessory building shall be used for such business, including the storage of materials or products.
9. No alteration of the residential appearance of the premises shall occur unless allowed by applicable building type and design regulations. This includes external structural alterations or site improvements that change the residential character of the lot upon which a home occupation is located. Examples of such prohibited alterations include the addition of commercial-like exterior lighting or the addition of a separate building entrance that is visible from abutting streets.
10. The home occupation, including any business storage, shall not displace or impede use of parking spaces required by this code. The home occupation shall not displace, interfere with or impede access to public parking.
11. The home occupation shall not cause the congregation of business employees at the site or congestion in the availability of on-street parking.
12. At least one individual engaged in the home occupation must reside in the household unit in which the home occupation is located as their primary place of residence.
13. The home occupation shall be in effect only for so long as the premises are occupied by the person in business.
14. The home occupation shall comply with all applicable codes including local building codes.
15. The home occupation shall meet all general regulations and all applicable supplemental regulations.

C. Board of Adjustment Reconsideration. Any approved home occupation may be subject to reconsideration by the board of adjustment if at any time the zoning enforcement officer determines that the conduct of the occupation does not comply with one or more general regulations for home occupations or applicable supplemental regulations, or has become detrimental to the neighborhood.

D. Type 1 Home Occupations. The following occupations are allowed by-right, subject to compliance with the regulations found in subsections **B** and **D** of this section:

1. Those occupations in which household residents use their home as a place of work with no employees, customers or clients coming to the site; and
2. In-home day care facilities for eight or fewer children.

E. Type 2 Home Occupations.

1. The community development director is authorized to approve Type 2 home occupation uses for the following:
 - a. Commercial services as defined by section 134-3.5.6 of this article;
 - b. Grooming of household pets as defined by section 134-3.5.2.B of this article; and
 - c. Office as defined by section 134-3.5.13 of this article.
2. In addition to the general regulations for home occupations, Type 2 home occupations are subject to the following supplemental regulations:
 - a. Hours of operation must not infringe on the residential atmosphere of the neighborhood. All outside activity related to the home occupation must cease between the hours of 7:00 p.m. and 7:00 a.m.
 - b. No more than two clients or customers may be present at any one time on the site of a Type 2 home occupation. Family members of the client or customer shall not be counted towards the two-person limit.
 - c. A maximum of one nonresident employee is allowed with a Type 2 home occupation. For the purpose of this provision, the term "nonresident employee" includes an employee, contractor, business partner, co-owner or any other person affiliated with the home occupation who does not live at the site, but who visits the site as part of the home occupation.

F. Type 3 Home Occupations.

1. The board of adjustment is authorized to approve Type 3 home occupation uses for the following:
 - a. Uses allowed as Type 2 home occupations, subject to the supplemental regulations set forth below;
 - b. Day care as defined by section 134-3.5.7 of this article; and

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- c. Retail sales as defined by section [134-3.5.15 of this article](#).
2. In addition to the general regulations for all home occupations, Type 3 home occupations are subject to the following supplemental use regulations:
 - a. Hours of operation must not infringe on the residential atmosphere of the neighborhood. All outside activity related to the home occupation must cease between the hours of 7:00 p.m. and 7:00 a.m.
 - b. No more clients or customers may be present at any one time on the site of a Type 3 home occupation than allowed by board of adjustment approval subject to consideration of the general regulations.
 - c. The board of adjustment shall determine the maximum number of nonresident employees allowed with a Type 3 home occupation. For the purpose of this provision, the term "nonresident employee" includes an employee, contractor, business partner, co-owner or any other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation.
- b. Hours of operation must not infringe on the residential atmosphere of the neighborhood. All outside activity related to the home occupation must cease between the hours of 10:00 p.m. and 7:00 a.m.
 - c. Outdoor eating for restaurants may be approved for buildings on corners and spaces not abutting another residence.
 - d. Parking lots are allowed in rear yards with a frontage buffer per section [135-7.7 of this code](#) and semi-pervious paving for all drive lanes and spaces. Parking lots are limited to no more than six spaces.

3.9.5 OUTDOOR DINING AND DISPLAY

A. Outdoor Dining. Tables and chairs for patrons of eating and drinking places located outdoors and directly adjacent to the structure containing the associated use.

1. Outdoor dining may be located anywhere on the lot.
2. Outdoor dining may be located on the sidewalk of an adjacent right-of-way of a non-primary street if all of the following requirements are met:
 - a. A sidewalk permit per chapter 102 of this code is approved.
 - b. At least five feet of continuous sidewalk is maintained clear and unobstructed for passing pedestrians.
 - c. No permanent construction is permitted within the right-of-way and all appurtenances shall be removed during the off-season.
 - d. A Type 1 exception may be approved for outdoor dining on a primary street, where no non-primary street is available adjacent to the business and the sidewalk is wide enough to accommodate the above requirements.
3. The maximum size of any outdoor dining shall not exceed the gross floor area of the restaurant interior.

B. Outdoor Display. The outdoor display of merchandise associated with a retail sales use.

1. Outdoor sales displays are permitted anywhere on the lot, but shall not be closer to the right-of-way line than the front building facade.

G. Type 4 Home Occupations.

1. The board of adjustment is authorized to approve Type 4 home occupation uses in the NX2a district for the following:
 - a. Uses allowed as a Type 3 home occupation, subject to the supplemental regulations set forth below;
 - b. Restaurant as defined by section [134-3.5.9.A of this article](#); Restaurants that include the sale of alcoholic liquor, wine, or beer are subject to the regulations found in Table 134-3.1-2 of this article and section [134-3.8.1 of this article](#); and
 - c. Artisan fabrication and production as defined by section [134-3.6.1.A of this article](#).
2. In addition to the general regulations for all home occupations, Type 4 home occupations are subject to the following supplemental regulations:
 - a. A maximum of one nonresident employee per 250 square feet of gross floor area devoted to the Type 4 home occupation use is allowed.

2. Outdoor sales displays on the same lot as a Fuel Station are limited to within five feet of the building or under the fuel canopy, and the height is limited to no more than five feet.
3. Outdoor sales are restricted to those items or merchandise which are permitted in the district.
4. If associated with a principal use on a corner lot, only a single frontage shall be utilized for accessory outdoor display purposes.
5. Merchandise, displays, and other structures in the front or street-side yards shall be removed and stored indoors during non-business hours.
6. Outdoor sales in the interior side or rear yard shall be fenced or walled. Any outdoor sales yard abutting a street right-of-way shall include a frontage buffer per section [135-7.7 of this code](#).
7. The gross square footage of an outdoor sales display area shall not exceed the gross square footage of the interior space of the building containing the associated principal retail sales use on the property.

3.9.6 OUTDOOR STORAGE

Permanent outdoor storage of goods, materials and equipment not typically housed or sold indoors, such as large-scale materials, and building and landscape supplies, but excluding junk and salvage yards.

- A. Outdoor storage is permitted in any I or EX district when associated with an industrial use, and in any CX district when associated with a large format retail use.
- B. Outdoor storage shall be located in the rear or side yard of the lot.
- C. Loose materials shall not be stacked higher than six feet and shall, at a minimum, be stored in a three-sided covered shelter.
- D. Goods, materials and equipment shall not be stacked higher than the height of the perimeter screening.
- E. Materials shall be set back from each lot line a minimum distance as established in, and subject to review pursuant to, chapter 135 of this code.
- F. All outdoor storage areas shall be screened from view of adjacent lots and streets in accordance with, and subject to review pursuant to, chapter 135 of this code.
- G. No person shall park, place, keep or store, or permit the parking or storage of, a stock car, racing car, inoperable or unsafe vehicle, vehicular component,

parts, or miscellaneous junk and debris on any public or private property unless it shall be in a completely enclosed building. This subsection shall not apply to legitimate businesses operating in a lawful place and manner; provided, however, that such outside areas are screened from public view.

3.9.7 RESIDENTIAL SUPPORT SERVICE

- A. Residential support services are small-scale personal service and retail sales uses that primarily serve the needs of residents of large residential buildings.
- B. Residential support services are allowed in NX3 districts as an accessory use to any principal group living use with more than 50 residents and in apartment buildings containing more than 30 permanent household units.
- C. Residential support services must be located on the ground floor of the same building as the principal residential use and not exceed 25% of the ground floor area of the building.
- D. Residential support services must have internal access from the principal residential building. External entrances are also allowed.

3.9.8 BOARDING AND ROOMING UNITS

The taking of boarders for more than 30 consecutive days or the leasing of rooms for more than 30 consecutive days is allowed as an accessory use to a principal use in the household living use category, provided the total number of boarders and roomers does not exceed two and an owner of the property resides full-time on the property.

134-3.10 Temporary Uses

3.10.1 DESCRIPTION AND PURPOSE

- A. A temporary use is the use of private property that does not require a building permit and that may or may not comply with the use and lot and building regulations of the zoning district in which the temporary use is located.
- B. The temporary use regulations of this section are intended to permit such occasional, temporary uses and activities when consistent with the purposes and regulations of this zoning ordinance.

3.10.2 AUTHORITY TO APPROVE

- A. All temporary uses require approval of a temporary use permit unless otherwise expressly stated.
- B. The community development director is authorized to establish administrative procedures governing the

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processing, review and approval of temporary use permits.

- C. The community development director is authorized to approve temporary uses that comply with the provisions of this section and to impose conditions on the operation of temporary uses to help ensure that they do not create significant adverse impacts on surrounding uses and that they operate safely and without causing nuisances, consistent with the general purposes of this zoning ordinance.
- D. Temporary uses that do not comply with all applicable regulations and all conditions of approval may be approved in accordance with the conditional use procedures of section [134-6.4 of this article](#). The community development director is authorized to refer any temporary use to the board of adjustment for consideration in accordance with conditional use procedures of section [134-6.4 of this article](#).

3.10.3 GENERAL PROCEDURE

Upon receipt of a complete application for a temporary use permit, the community development director must review the proposed temporary use for its likely effects and surrounding properties and its compliance with the general provisions of this section. The community development director may impose such conditions of approval on the temporary use permit as the community development director determines necessary to mitigate potential adverse impacts. Such conditions may include the following:

- A. Requirements for vehicle access and parking;
- B. Restrictions on hours of operation and duration;
- C. Limitations on signs and outdoor lighting;
- D. Requirements for financial guarantees covering the costs of cleanup or removal of structures or equipment; and
- E. Other conditions necessary to carry out the stated purposes of this zoning ordinance and the municipal code.

3.10.4 AUTHORIZED USES

The community development director is authorized to approve a temporary use permit upon determining that the proposed use is a customary temporary use in the subject location and will generally be compatible with surrounding uses and not be a detriment to public safety.

3.10.5 GARAGE SALES

Garage sales located on lots occupied by residential household unit are permitted without approval

of temporary use permit, subject to the following supplemental regulations:

- A. No more than two garage sales may be conducted on a single lot in any calendar year, with each garage sale limited to no more than four consecutive days in duration. These limits apply on a per-lot basis, regardless of the person conducting the garage sale.
- B. No person conducting a garage sale may sell merchandise at the garage sale acquired solely for resale purposes.
- C. Garage sales are sometimes referred to as "yard sales," "estate sale," "moving sales," "occasional sales" and other similar names. All such sales, by whatever name, are classified and regulated as "garage sales."
- D. Authorization to conduct more than two garage sales in any calendar year requires review and approval with conditional use procedures of section [134-6.4 of this article](#).
- E. Any other type of sale, or any similar sales in excess of the annual number allowed by this section, on lots occupied by household unit(s) shall constitute a commercial use not permitted in a residential zoning district.