

## C: COMMERCIAL DISTRICT

### 154.180 INTENT.

The C: Commercial District is established to provide a location for those retail sales and service functions whose operations are typically characterized by: outdoor display or sales of merchandise; major repair of motor vehicles; commercial amusement and recreational activities; or, activities or operations conducted in structures which are not completely enclosed. The types of uses found in the C: Commercial District are often brightly lighted and noisy. Permitted uses contained in this district are such that this district may be used to form a grouping of similar uses along certain portions of major commercial thoroughfares. Special attention should be paid to buffering whenever this district is located adjacent to any residential district or residential uses.

*(Ord. 51-05, § 8.04.04, passed 5-10-2005)*

### 154.181 PERMITTED USES.

#### (A) *Primary uses.*

- (1) All uses listed as primary uses in the B: Business District of this chapter;
- (2) Amusement establishments, including bowling alleys, pool halls, dance halls, gymnasiums, swimming pools, skating rinks, archery ranges, shooting galleries and similar uses;
- (3) Amusement parks, including permanent carnivals, kiddie parks, golf driving ranges, par three and miniature golf courses, and other similar outdoor amusement facilities;
- (4) Animal hospitals;
- (5) Auction rooms;
- (6) Automobile accessory stores;
- (7) Automobile service stations for the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies including installation and minor services customarily incidental thereto; facilities for chassis and gear lubrication are permitted only if enclosed in a building;
- (8) Automobile laundry/car wash, permitted only if enclosed in a building;
- (9) Bakeries, including the sale of bakery products to restaurants, hotels, clubs, and other similar establishments when conducted as part of the retail business on the premises;
- (10) Battery and tire service stations;
- (11) Bicycle sales, rental, and repair stores;
- (12) Blueprinting and photostatting establishments;
- (13) Boat showrooms;
- (14) Building material sales, for retail sales of dimension lumber, millwork, cabinets, and similar building materials, but not including processing or manufacture of millwork;
- (15) Bus passenger stations and terminals;
- (16) Butcher (including limited live slaughtering and retail sale on premises);
- (17) Cartage and express facilities;
- (18) Catering establishments;
- (19) Clothing and costume rental stores;

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- (20) Clubs and lodges (nonprofit);
- (21) Contractors or construction offices, shops, without outside storage;
- (22) Convention halls and meeting halls;
- (23) Crematories;
- (24) Dry-cleaning establishments, with no limitation on number of employees;
- (25) Employment agencies;
- (26) Exhibition halls;
- (27) Exterminating shops;
- (28) Feed stores;
- (29) Frozen food lockers;
- (30) Fuel and ice sales, for retail sales of coal and other solid fuels and oil and other liquid fuels; provided, such liquid fuels in excess of 120 gallons are stored in underground tanks;
- (31) Garages, for storage, repair, and servicing of motor vehicles of not over one and one-half tons capacity, including body repair, painting, and engine rebuilding;
- (32) Greenhouses, wholesale and retail;
- (33) Hotels and motels;
- (34) Laboratories, medical and dental;
- (35) Launderettes, automatic, self-service only, or hand laundries, with no limitation on number of employees;
- (36) Laundries, with no limitation on number of employees;
- (37) Linen, towel, diaper, and other similar supply services;
- (38) Live bait stores;
- (39) Locksmith shops;
- (40) Machinery sales;
- (41) Mail order houses.;
- (42) Meat markets including the sale of meats and meat products to restaurants, hotels, clubs, and other similar establishments when conducted as part of the retail business on the premises;
- (43) Model homes or garage displays;
- (44) Monument sales;
- (45) Motor vehicle sales;
- (46) Orthopedic and medical appliance stores, but not including the assembly or manufacture of such articles;
- (47) Packing and crating;
- (48) Parcel delivery stations;
- (49) Parking lots, open and other than accessory, for storage of motor vehicles of not over one and one-half tons capacity;
- (50) Recycling drop-off center;
- (51) Pawnshops;
- (52) Pet shops;
- (53) Philanthropic and eleemosynary institutions;
- (54) Plumbing showrooms and shops;
- (55) Printing;

- (56) Public utility service substations and distribution centers, electric, gas, telephone, and water;
- (57) Publishing;
- (58) Radio and television service and repair shops;
- (59) Radar installations and towers;
- (60) Radio and television studios, stations, and towers, transmitting and receiving;
- (61) Recording studios;
- (62) Religious uses;
- (63) Renewable energy systems. See §§ 154.505 through 154.516; (*Ord. 17-20, 2/18/20*)
- (64) Restaurants, including live entertainment and dancing;
- (65) Riding academies;
- (66) Schools, commercial or trade;
- (67) Schools, music, dance, or business;
- (68) Secondhand stores and rummage shops;
- (69) Stadiums, auditoriums, and arenas, open or enclosed;
- (70) Storage, warehousing, and wholesale establishments;
- (71) Trailer sales and rental, for use with private passenger motor vehicles;
- (72) Taverns, including live entertainment and dancing;
- (73) Taxidermists;
- (74) Telephone booths, outdoor;
- (75) Theaters, indoor;
- (76) Vending machines, ice and milk sales; and
- (77) Wireless telecommunication facilities, per the requirements of § 154.457(C)(1)(c). (*Ord. 91-07, § 10, passed 10-9-2007*)

(B) *Special uses.*

- (1) All uses listed as Special Uses in the B: Business District of this chapter;
- (2) Automobile laundry/car wash (not enclosed in a building);
- (3) Automobile testing grounds;
- (4) Automobile wrecking yards;
- (5) Contractor yard and offices with outdoor storage up to fifty percent of the gross lot area; (*Ord. 38-22, 2/8/2022*)
- (6) Fairgrounds and race tracks of all kinds, including grandstand seating and other accessory uses customarily incidental thereto, subject to the following development standard: the lot contains not less than 320 acres of area of which 120 acres shall be used along its perimeter as a landscaped open area surrounding commercial and organized activity areas, buildings, structures, off-street parking and other service uses;
- (7) Garages, for storage, repair, and servicing of motor vehicles of over one and one-half tons capacity, including body repair, painting, and engine rebuilding; Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

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(8) Gun Shops and gunsmith shops, subject to the following development standards: no firearms or ammunition shall be sold in any gun sales or gunsmith shops within two-hundred (200) feet of any:

- (a) any public or parochial school for children in any grades from K through 12;
- (b) child care center; or,
- (c) child care ministry;

(9) Highway maintenance shops and yards with outdoor storage up to fifty percent of the gross lot area; (*Ord. 38-22, 2/8/2022*)

- (10) Kennels;
- (11) Miniature automobile tracks;

(12) Mining, loading and hauling of sand, gravel or other aggregate and/or the processing thereof, on a lot no less than ten acres in area, subject to the following development standards:

(a) The operations and uses shall not be conducted within 50 feet of any property line unless a greater distance is recommended by the Board of Zoning Appeals and specified by the Legislative Body, where such is deemed necessary for the protection of adjacent property. Beginning at the above required setback, the banks of all excavation areas shall not be excavated to a slope greater than 45 degrees from the horizontal; provided, however, when the adjacent property is being mined for sand and/or gravel, the setback requirements may be waived along any common property line;

(b) A continuous fence, comprised of four feet of woven wire fabric with a strand of barbed-wire two inches above and two inches below the woven wire, shall be erected and maintained along the property line around the entire site. In addition, an evergreen planting screen shall be required around the entire site within the required setback. Such screen planting shall be comprised of pine seedlings which are staggered six feet on center in two rows which are six feet apart; provided, however, when the adjacent property is being mined for sand and/or gravel the fence and screen planting requirements may be waived along any common property line;

(c) All access roads, beginning at the existing roadway surface and extending a distance of not less than 250 feet inward shall be hard surfaced;

(d) Asphalt producing facilities, buildings, structures, and equipment for screening, crushing, washing, storage or other similar processing may be recommended by the Board of Zoning Appeals and/or authorized by the Legislative Body as a specific variation, which may be limited by the recommendation of the Board of Zoning Appeals and/or the determination of the Legislative Body to a definite period of time, provided that such operations conform the regulations of § 154.073;

(e) Prior approval of the special use every applicant shall execute an acceptable indemnity agreement in favor of the Board of County Commissioners in a form approved by the County Engineer, which indemnity agreement shall be for the purpose of assuring the restoration, rehabilitation and reclamation of mined out areas within a reasonable time and to the satisfaction of the Board of Zoning Appeals and the Legislative Body and to further assure that the following minimum requirements will be met:

1. A uniform rolling contour shall be established throughout all excavation areas;
2. The banks of all excavation areas shall be restored to a 2-foot horizontal and 1-foot vertical ratio and the slopes seeded, landscaped and maintained until a permanent type ground cover is established to prevent erosion;
3. Soil, suitable for growing vegetation, shall be replaced over the slopes to a uniform depth of not less than 2 inches;
4. If excavations are made to a water producing depth, such depth shall not be less than 6 feet below the low water mark and the areas which are not permanently submerged shall be so graded as to eliminate the collection of stagnant water and
5. In addition to the foregoing, the Board of Zoning Appeals may recommend and the Legislative Body may impose such other conditions, requirements or limitations concerning the nature, extent of the use and operation of such excavation operations as the Board of Zoning Appeals and/or the Legislative Body may deem necessary for the protection of adjacent properties and the public interest.

(f) The requirements of land reclamation may be waived where the landowner has, prior to application, entered into an agreement with a public authority to utilize the land for refuse disposal in compliance with the refuse disposal ordinance of the county.

(13) Off-track para-mutual wagering facility, approved hotels, casinos, or buildings wherein gambling games are conducted, provided that the development standards described in § 154.182 are complied with (In the case of conflicting regulations, the more restrictive shall apply.) (*Ord. 52-20; 8/25/20*)

- (a) Minimum floor area of the principal building shall be 6,000 square feet;
- (b) The lot shall have direct access from an arterial street as determined by the Board of County Commissioners;
- (c) In addition to the regulations set forth in §§ 154.415 through 154.423, the following landscaping and screening development standards shall apply:
  1. Off parking, associated drives and maneuvering areas shall not be located less than 20 feet from any side or rear lot line; and
  2. All security fencing shall be effectively screened;

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(d) An off-track para-mutual wagering facility, approved hotels, casinos, or buildings wherein gambling games are conducted, shall not be located within 500 feet of any residential use zoning district in St. Joseph County or any municipality in St. Joseph County.

(14) Parking lots for storage of motor vehicles over one and one-half tons capacity; *(Ord. 19-20, 2/18/20)*

(15) Renewable energy systems. See §§ 154.505 through 154.516; *(Ord. 17-20, 2/18/20)*

(16) Theaters, drive-in establishments, subject to the following development standards:

(a) Vehicular entrance and exit points are along secondary thoroughfares within a commercial or manufacturing district and traffic-control regulations, either traffic signal lights or other means, are provided;

(b) No building or structure including enclosing fence or wall shall set back from a property line adjoining a street less than 40 feet, and from property lines not adjoining a street, not less than 20 feet, except not less than 40 feet from a property line adjoining a residential district boundary line;

(c) Artificial lighting shall be arranged in such a manner that direct rays of light shall not beam upon adjoining properties and streets; and,

(d) Off-street parking spaces are installed, equal in number to 10% of the vehicle capacity of the theater.

(17) Tourist camps on lots no less than five acres in area and constructed and operated in accordance with applicable State and county standards and regulations.

(18) Welding shops, subject to the following development standards:

(a) All operations including accessory storage, are conducted in enclosed buildings in such a manner as not to be visible from a street and surrounding properties;

(b) A building or part of building used for welding operations shall be located not less than 50 feet from a residence district boundary line; except, when located on a lot across the street from a residence or business district, it shall be located not less than fifty (50) feet from the lot line adjoining the street.

(19) Wireless telecommunication facilities, per the requirements of § 154.457(C)(1)(c). *(Ord. No. 91-07)*

(C) *Accessory uses.* See § 154.070. Further, accessory uses, incidental to and on the same lot as a permitted principal use shall also be permitted, including the following:

(1) One dwelling unit provided that the dwelling unit is located within the building containing the permitted principal use;

(2) Renewable energy systems. See §§ 154.505 through 154.516. *(Ord. 17-20, 2/18/20)*

(D) *Temporary uses.* See § 154.071.

(E) *Controlled uses.* See §§ 154.475 through 154.478. Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

(*Ord. 51-05, § 8.04.04A, passed 5-10-2005; Ord. 91-07, § 10, passed 10-9-2007; Ord. 69-09, §§ 9, 10, passed 8-11-2009*) Penalty, see § 154.999

#### **154.182 GENERAL DEVELOPMENT STANDARDS.**

(A) *Lot area.* Lot area shall not be less than 2,500 square feet of lot area for each business establishment.

(B) *Lot width.* The minimum lot width shall be 35 feet.

(C) *Minimum yards and building setback.* Yards shall be as follows, except when this chapter specifies a greater yard requirement for a particular permitted primary use, conditional use, special use or accessory use, the greater specified yard requirements shall control:

(1) *Front yard and building setback.* Front yard and building setback shall be 40 feet in depth measured from the right-of-way line.

(2) *Side yard and building setback.* Side yard and building setback shall be provided from the lot line as follows:

(a) If a side yard is provided along an interior lot line, it shall be not less than five feet in width.

(b) On a corner lot, a side yard adjoining a street shall be not less than 40 feet in width, except if a corner lot of record, recorded prior to March 21, 1961, has insufficient width to provide such a yard of 40 feet in width and still to maintain a buildable width of 30 feet, then the side yard adjoining a street may be reduced by the distance necessary to maintain such buildable width.

(3) *Side yard and building setback.* Side yard and building setback abutting a residential district or residential use shall not be less than 20 feet in depth from the lot line, provided, however, when an alley separates such lots, the side yard shall be not less than five feet in width.

(4) *Rear yard and building setback.* Rear yard and building setback shall not be less than 20 feet in depth from the lot line, provided, however, when an alley separates such lots, the rear yard shall be not less than five feet in width.

(D) *Use of yards.* All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 154.330 through 154.339 and shall

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be maintained as open space free from buildings or structures except where expressly permitted below:

(1) *Minimum front yards.* Minimum front yards may include:

(a) Along limited access highways may include: loading areas located no closer to the right-of-way than 15 feet;

(b) All front yards may include: parking areas, interior access drives, interior access driveways, and fuel pumps, air pumps, water pumps, and freestanding canopies in conjunction with automobile service stations located no closer to the right-of-way than 15 feet; driveways, greenways, sidewalks, fences, or signs as regulated by §§ 154.370 through 154.381.

(2) *Minimum front yards across from a residential district or residential use.*

Minimum front yards across from a residential district or residential use may include: driveways, greenways, sidewalks, fences, and signs as regulated by §§ 154.370 through 154.381.

(3) *Minimum side and rear yards.* Minimum side and rear yards may include:

interior access drives, interior access driveways, greenways, sidewalks, and fences.

(4) *Minimum side and rear yards abutting a residential district or residential use.*

Minimum side and rear yards abutting a residential district or residential use may include interior access driveways, greenways, sidewalks, and fences.

(Ord. 52-20; 8/25/20)

(E) *Floor area ratio.* Floor area ratio shall not exceed 1.2.

(F) *Maximum building height.* Unlimited, provided, however, when a building or structure exceeds 40 feet in height, the yard required above shall be increased by two feet in width for each one foot of building height over 40 feet.

(G) *Landscaping.* See §§ 154.330 through 154.339.

(H) *Lighting.* See §§ 154.350 through 154.355.

(I) *Signs.* See §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(J) *Off-Street parking.* See §§ 154.415 through 154.423.

(K) *Off-street loading.* See §§ 154.435 through 154.442

(L) *General requirements.*

(1) All activities involving the production, processing, cleaning, servicing, testing, or repair of materials, goods, or products shall conform with the requirements set forth in § 154.073, as applied at the boundaries of the lot on which such activities take place.



(2) All business, storage, servicing, or processing shall be conducted within completely enclosed buildings, with the following exceptions:

(a) Establishments of the drive-in type offering goods or services directly to customers waiting in parked motor vehicles:

(b) Storage, auxiliary to the principal use, is permitted in the open if it occupies not more than twenty percent of the gross lot area, except as otherwise provided for specific uses in Section 154.181. Where storage of materials or products, excluding merchandise on display for sale to the public, is not within completely enclosed buildings and occupies more than twenty percent of the gross lot area, such outdoor storage areas shall be screened from public rights-of-way and office, business, and commercial districts by buildings or fencing with an open space of thirty percent or greater supplement by Type 2: Full Screening Landscaping, or fencing with an open space of less than thirty percent supplement by Type 1: Open Landscaping. The height above grade of said fencing must be at least six (6) feet; (*Ord. 38-22; 2/8//22*)

(c) Storage of merchandise on display for sale to the public may be located in any area on a lot where off-street parking may be located;

(d) Off-street parking and loading;

(e) Trash containers; and (*Ord. 52-20; 8/25/20*)

(f) Renewable energy systems. (*Ord. 52-20; 8/25/20*)

(3) Where any use which is not within a completely enclosed building abuts a residential district at a side or rear lot line, or is separated from a residential district only by an alley along a side or rear lot line, such use shall be effectively screened from such residential district by a solid wall or fence, including solid entrance and exit gates, at least six feet in height, extending along such rear or side lot line.

(M) *Greenway connection.* Uses which encourage public access located on a lot or parcel which abuts any portion of a greenway shall provide a direct linkage from the project to such greenway. (*Ord. 77-19, 09/10/2019*)

(N) *Pedestrian Connection.* Uses located on a lot or parcel which abuts any portion of a sidewalk shall provide direct linkage to the main entrance. (*Ord. 77-19, 09/10/2019*)

(O) *Architecture.*

(1) *Additions to existing buildings.* All additions to existing buildings shall utilize building materials that are compatible and harmonious with the materials used on the existing building.

(2) *Exterior renovations, major additions and accessory buildings.* Exterior renovations, major additions and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (O)(3) below, for new construction,

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however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (O)(1) above, for additions to existing buildings.

(3) *New construction*: In order to create variation and interest in the built environment, all new primary buildings shall comply with one (1) of the following two (2) sets of architectural regulations regarding building material and architectural features on each facade visible from a public street:

(a) All brick (excluding window, display window, door, roofing, fascia and soffit materials), provided that the brick used on each applicable facade shall include:

1. At least two architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.); or,

2. At least two colors of brick, with the secondary color constituting a minimum of 10 percent of the façade (excluding windows, display windows, doors, roofing, fascia or soffit materials); or,

(b) Two or more building materials (excluding window, display window, door and roofing materials), provided:

1. *Primary building material*. The primary building material shall be either: brick; stone (limestone, granite, fieldstone, etc.); architectural pre-cast concrete, if the surface looks like brick or stone; or, exterior insulation and finish system (E.I.F.S.) or equivalent, and shall constitute a minimum of 50% of each applicable façade.

2. *Secondary building material*. The secondary building material shall constitute a minimum of 10% of the façade. Glass curtain wall or a faux window (not intended for use as a window or display window) may qualify as a secondary building material.

(c) *Architectural Features*. In addition, the exterior building material selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, etc.) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.) on each facade visible from a public street.

(Ord. 51-05, § 8.04.04B, passed 5-10-2005) Penalty, see § 154.999