

ORDINANCE NO. 2024-2067
AMENDING CHAPTER 114 ZONING
ARTICLE IV SEC. 114-124 Commercial Land Uses

Sec. 114-124. Commercial land uses.

(a) Office.

- (1) Description.** Includes all exclusively indoor land uses whose primary functions are the handling of information or administrative services such as accounting firms. Such land uses do not typically provide services directly to customers on a walk-in or on an appointment basis (see subsection (b) of this section).

(b) Personal or professional service.

- (1) Description.** Includes all exclusively indoor land uses whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such uses include professional services, insurance or financial services, realty offices, medical offices and clinics, veterinary clinics, barbershops, beauty shops, and related land uses, but do not include sexually oriented land uses.

(c) Indoor sales or service.

- (1) Description.** The sale and/or display of merchandise or equipment or non-personal or non-professional services, entirely within an enclosed building. Includes general merchandise stores, grocery stores, butcher, sporting goods stores, antique stores, gift shops, laundromats, bakeries, pawn shops, payday lenders, and a number of other uses meeting this definition.

(2) Regulations.

- a. Depending on the zoning district, such land uses may or may not display products outside of an enclosed building. Such activities are listed as outdoor sales or service incidental to indoor sales under accessory uses in the table of land uses, section 114-128(6).
- b. A land use which contains both indoor sales and outdoor sales exceeding 15 percent of the total sales area of the building on the property shall be considered as an outdoor sales land use. (See subsection (d) of this section.)
- c. Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly associated with retail sales are regulated as light industrial uses incidental to indoor sales.

(d) Outdoor sales or service.

- (1) Description.** Includes all land uses which conduct sales, display sales or rental merchandise or equipment outside of an enclosed building such as vehicle sales, vehicle rental, manufactured and mobile housing sales and monument sales.

(2) Regulations.

- a. The area of outdoor sales shall be calculated as the area which would be enclosed by a fence installed and continually maintained in the most efficient manner which completely encloses all materials displayed outdoors.
- b. The display of items shall not be permitted in permanently protected green space areas, required landscaped areas, or required bufferyards.
- c. The display of items shall not be permitted within required setback areas for the principal structure.
- d. In no event shall the display of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions of section 114-56.

If the number of provided parking stalls on the property is already less than the requirement, such display area shall not further reduce the number of parking stalls already present.

- e. Display areas shall be separated from any vehicular parking or circulation area by a minimum of ten feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, or line of planters, or by a clearly marked paved area.
 - f. Signs, screening, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either onsite or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
 - g. Outdoor sales or service shall be permitted during the entire calendar year, however, if goods are removed from the display area all support fixtures used to display the goods shall be removed within ten calendar days of the goods' removal.
 - h. Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed for this land use.
- (e) *Indoor maintenance service.*
- (1) *Description.* Includes all land uses which perform maintenance services such as repair and contain all operations, except loading, entirely within an enclosed building. Because of outdoor vehicle storage requirements, vehicle repair and maintenance is considered a vehicle repair and maintenance land use.
- (f) *In-vehicle sales or service.*
- (1) *Description.* Includes all land uses which perform sales and/or services to persons in vehicles such as drive-ins, drive-ups, and drive-through facilities, vehicular fuel stations, and all forms of car washes. If performed in conjunction with a principal land use, for example, a convenience store, restaurant or bank, in-vehicle sales and service land uses shall be considered an accessory use.
 - (2) *Principal and accessory land use regulations.*
 - a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lane.
 - b. The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
 - c. In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this section.
 - d. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, a minimum of 20 feet from all residentially zoned property lines, and shall be a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to highest part of structure.
 - e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material which is designed to meet the requirements of a minimum four-ton axleload.
 - f. Interior curbs shall be used to separate driving areas from exterior fixtures such as fuel pumps, vacuums, menu boards, canopy supports and landscaped islands. Said curbs shall be a minimum of six inches high and be of a non-mountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to all property lines.
 - g. Each drive-up lane shall have a minimum stacking length of 100 feet behind the pass through window and 40 feet beyond the pass-through window.
- (g) *Indoor commercial entertainment.*
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- b. Within the PB district, each and every room must take primary access via an individual interior door, and may not be accessed via an external balcony, porch or deck, except for emergency purposes.

(k) *Bed and breakfast establishment.*

(1) *Description.* Bed and breakfast establishments are exclusively indoor lodging facilities which provide meals only to paying lodgers. Such land uses may provide indoor recreational facilities for the exclusive use of their customers.

(2) *Regulations.*

- a. All such establishments shall be required to obtain a permit to serve liquor pursuant to Wis. Stats. ch. 125, if they intend to serve liquor.
- b. They shall be inspected annually at a fee established by a separate fee ordinance, to verify that the land use continues to meet all applicable regulations.
- c. The size, number and location of all signs shall be established by conditional use.
- d. No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate operational smoke detector alarm, as required in the building code. One lavatory and bathing facility shall be required for every ten occupants, in addition to the owner's/operator's personal facilities.
- e. The dwelling unit in which the bed and breakfast is operated shall be the principal residence of the operator/owner and said operator/owner shall live on the premises when the bed and breakfast operation is active.
- f. Only the meal of breakfast may be served and only to overnight guests.
- g. Each operator shall keep a list, for a period of one year, of the names and addresses of all persons staying at the bed and breakfast. Such list shall be available for inspection by city officials at reasonable times.
- h. The maximum stay for any occupant of a bed and breakfast shall be determined by state statute and/or administrative code.
- i. In addition to the application requirements for all conditional uses, applicants shall submit an interior floor plan of the dwelling illustrating that the proposed operation will comply with this article as amended, and other applicable city codes and ordinances.
- j. In addition to the standards of review for all conditional uses, the commission shall also determine whether a permit shall be issued based upon the public convenience and necessity. In determining the number of bed and breakfast operations required to provide for such public convenience and necessity, the commission shall consider the effect upon residential neighborhoods, the condition of existing holders of permits, if any, and the necessity of issuance of additional permits for public service.
- k. Any permit issued under the provisions of this chapter may be revoked by the commission for good cause shown after investigation and after granting the permit holder the opportunity to be heard in opposition thereto.
- l. Each conditional use permit shall be valid only while said property is owned by the permit holder at time of conditional use approval. Unless specifically stated otherwise in the conditional use,

the conditional use permit shall automatically terminate upon conveyance of the property to a new owner.

(l) *Group day care center (nine or more children).*

(1) Description. Group day care centers are land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools.

(2) Regulations.

- a. Property owner's permission is required as part of the conditional use permit application.
- b. Such land uses shall not be located within a residential building.
- c. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group day care centers are not considered as accessory uses and therefore require review as a separate land use.
- d. Such land uses may be operated on a for-profit or a not-for-profit basis.

(m) *Boardinghouse.*

(1) Description. Boardinghouses include any residential use renting rooms which do not contain private bathroom facilities, with the exception of approved bed and breakfast facilities.

(2) Regulations.

- a. Shall be located in an area of transition from residential land uses to nonresidential land uses.
- b. Shall comply with section 114-288, applicable to all conditional uses.

(n) *Sexually oriented land uses.*

(1) Description. Sexually oriented land uses include any facility which rents, sells or displays sexually oriented materials, such as X-rated videos, movies, slides, photos, books, or magazines. For the purpose of this chapter, the term "sexually specified areas" includes any one or more of the following: genitals, anal area, female areola or nipple; and the term "sexually oriented material" includes any media which displays sexually specified areas. Establishments which sell or rent sexually oriented materials shall not be considered sexually oriented land uses if:

- a. The store area devoted to the sale or rent of said materials is less than five percent of the sales area devoted to non-sexually oriented materials;
- b. Such materials are placed in generic covers or are placed in an area which is separate from and not visible from the areas devoted to non-sexually oriented materials; and
- c. Such materials are not advertised by any advertising located or visible outside of the store.

(2) Rationale. The incorporation of this subsection (p) into this chapter is designed to reflect the common council's official finding that sexually oriented commercial uses have a predominant tendency to produce certain undesirable secondary effects on the surrounding community, as has been demonstrated in other, similar jurisdictions. Specifically, the common council is concerned with the potential for such uses to limit the attractiveness of nearby locations for new development; the ability to attract and/or retain customers; and the ability to market and sell nearby properties at a level consistent with similar properties not located near such facilities. It is explicitly not the intent of this subsection (p) to suppress free expression by unreasonably limiting alternative avenues of communication, but rather to balance the need to protect free expression opportunities with the need to implement the city's comprehensive master plan and protect the character and integrity of its commercial and residential neighborhoods.

(3) Regulations.

- a. The facility shall be located a minimum of 1,000 feet from any agriculturally zoned property or residentially zoned property; and shall be located a minimum of 1,000 feet from any school, church, or outdoor recreational facility.
- b. Exterior building appearance and signage shall be designed to ensure that the use does not detract from the ability of businesses in the vicinity to attract customers, nor affect the marketability of properties in the vicinity for sale at their assessed values.

(o) Vehicle repair and maintenance service.

- (1) Description.** Vehicle repair and maintenance services include all land uses which perform maintenance services, including repair, to motorized vehicles and contain all operations except vehicle storage entirely within an enclosed building.

(p) Zero lot line structures.

- (1) Description.** A structure that is built on the property line, such as a twin house, townhouse, or downtown unit.

(2) Regulations.

- a. Lots shall have a minimum area of 5,000 square feet and shall not be less than 45' in width with one dwelling unit per lot.
- b. There shall be a minimum setback of 25' from the street lot line. There shall be a side yard requirement on one side of a building of not less than 10'. The dwelling unit shall be placed on one side property line with a 0' side yard. There shall be a rear yard of not less than 25' for all lots.
- c. Buildings constructed shall be of the row (party wall) dwelling type and shall consist of a row of 2 attached dwelling units. The common wall between individual dwelling units shall be constructed of at least a one-hour fire rated construction.
- d. Common public utility laterals shall not be permitted.
- e. Side lot lines shall be a straight line and perpendicular or radial to the street line.

APPROVED:

ATTEST:

, Mayor

Daron Haugh, Administrator

- Date of Plan Commission Recommendation (if applicable): 03-27-24
- Date of Public Hearing (if applicable): _____
- Date of Readings: 04-09-24 04-23-24
- Date of Adoption: _____
- Votes: _____
 - Ayes ___ Nays ___ Absent ___ Abstention _____

- Date of Publication: _____