

# **Westphalia Planning and Zoning Code: Article I**

**ARTICLE I  
ZONING**

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# ARTICLE I ZONING

## DIVISION 1. TITLE, PURPOSE, DEFINITIONS, GENERAL PROVISIONS

### Sec. 100. Title and Purpose.

This Article, and the *Official Zoning Map* made a part hereof, shall be known and may be cited as the *Westphalia Planning and Zoning Code*.

This Article is adopted in order to promote the health, safety, morals, and the general welfare of the community by regulating the height, number of stories, and the size or bulk of buildings and other structures, lot coverage, the size of yards and other open spaces, the density of population and the location and use of buildings and structures for trade, industry, residences or other purposes. Additional purposes include the conservation and protection of property values and the economic use of property as well as the prevention of traffic congestion and the mitigation of adverse environmental impacts from the conduct of business in Westphalia.

### Sec. 100.1 Regulated Activities.

- A. **Territorial Application of Regulations:** The regulations and restrictions in this Article shall apply to all buildings, structures, and land uses within the corporate limits of the City of Westphalia, unless otherwise exempted or grand-fathered by other provisions of this Article.
- B. **Application to New Uses of Existing Structures:** If a use of any building or structure is hereafter changed to another use, then the new use must comply with the use regulations of this Article, but the establishment of a new use does not require an existing building or structure to conform to the lot size, open space or bulk regulations of this Article.
- C. **Application for Expansion and Enlargement:** If any building or structure is expanded or enlarged after the effective date of this Article:
  - 1) The entire building or structure shall comply with the use regulations of this Article;
  - 2) Any expansions or enlargements of a building or structure shall comply with the bulk and open space regulations of this Article; and
  - 3) The off-street parking facilities shall not be reduced below the minimum requirements applicable to a similar new building, structure or use.
- D. **Application to Existing Uses, Buildings and Structures:** Any use, building or structure that does not conform to the regulations of this Article, but were lawful and conforming when established or constructed, may continue subject to the restrictions under Division 13, Section 153 pertaining to non-conforming uses.
- E. **Application to Open Land Uses:** If any use of open land is established or if any use of open land is changed to another use after the effective date of this Article, such new use shall comply with all of the regulations of this Article.

## **Sec. 100.2 Rules of Interpretation.**

When referring to this Article, the following rules of interpretation shall be applied, except when the context clearly requires otherwise.

- 1) The word *shall* is always mandatory and not discretionary. The word *may* is permissive.
- 2) Words used in the present tense shall include the future and words used in the singular include the plural and the plural the singular, unless the context clearly indicates the contrary.
- 3) The use of the male pronoun includes the use of the female pronoun.
- 4) The word *person* includes individuals, firms, corporations, associations and any other similar entities.
- 5) The words *parcel*, *site*, or *tract* are synonymous and are general terms for the description of land.
- 6) The word *City* means the area of jurisdiction of the City of Westphalia, Missouri.

## **Sec. 100.3 Definitions.**

Words found in the text or tables of this Article shall be interpreted in accordance with the provisions set forth in this Section. Where words have not been defined, the standard dictionary definition shall prevail. The following terms are hereby defined:

***Accessory building or structure:*** A structure which is subordinate to and serves a principal structure; is subordinate in area, extent or purpose; and is located on the same lot with the main use or building.

***Acre:*** A measure of land area containing forty three thousand five hundred sixty (43,560) square feet.

***Agricultural activity:*** The production, keeping or maintenance, for sale, lease or personal use, of plants and animals, excluding feed lots, stockyards, and animal slaughter or meat processing facilities.

***Alley:*** A public way that extends only secondary means of access to abutting property.

***Alteration, structural:*** Any change in a supporting member of a building.

***Apartment:*** A building designed for or occupied exclusively by two or more households residing in separate living units.

***Apartment structure:*** Same as "Dwelling, multi-family."

***Automobile sales:*** An open area, other than a street or required automobile parking space used for the display or sale of new or used automobiles or trailers, and where no repair work is



done except minor incidental repair of automobiles or trailers to be displayed and sold on the premises.

**Automobile service station:** Any premises used for supplying gasoline, oil, diesel and liquefied petroleum gases, at retail direct to the customer, including minor accessories and services for vehicles.

**Automobile wrecking or salvage yard:** An open area used for dismantling or wrecking of any type of used vehicles or the storage, sale or dumping of dismantled or wrecked vehicles or their parts and accessories.

**Bar:** See *Tavern*.

**Basement:** A story partly or wholly below grade. For purposes of height measurement a basement shall be counted as a story where more than one-half (1/2) of its height is above the average level of the adjoining ground.

**Berm:** A mound of earth, typically located in a buffer-yard to shield or block noise, lights or other nuisances.

**Boarding, rooming and lodging house:** A building other than a motel where lodging and/or meals is provided by the owner or operator for three (3), but not more than five (5) persons for compensation.

**Buffer-yard:** Land area typically containing trees, shrubs and other plants, berms, fences or walls and used to visibly separate one use from another or to limit nuisances.

**Building:** A structure having a roof supported by columns or walls and intended for human or property occupancy.

**Building unit, group:** Two or more buildings (other than dwellings) grouped upon a lot and held under single ownership, such as universities, hospitals, and institutions.

**Building line:** A line located a minimum horizontal distance from the center of the street and parallel thereto, beyond which no part of a building shall extend.

**Building, front of:** The side of a building most nearly parallel with and adjacent to the front of the lot on which it is situated.

**Building, principal:** A building in which is conducted the principal use of the lot on which it is situated.

**Bulk requirements:** Standards that control the height, lot coverage, and location of structures.

**Bulk storage:** The storage of chemicals, petroleum products, and other materials in above-ground containers for resale to distributors or retail dealers or outlets.

**Cemetery:** Property used for the interring of the dead, including mausoleums.

***Child care center:*** A state licensed child day care facility permitted to serve more than ten (10) unrelated children and required to utilize a commercial grade kitchen.

***Child day care:*** The care of a child away from his own home on either a commercial or non-commercial basis for any part of a twenty- four (24) hour period.

***Child care home, family:*** A state licensed child care facility permitted to serve no more than ten (10) unrelated children.

***Child day care home:*** An unlicensed child day care facility permitted to serve no more than four (4)-unrelated children.

***Church:*** A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of religious services and associated accessory uses.

***Clinic, medical or dental:*** An institution or station for the examination and treatment of all ill and affected out patients where overnight lodging is limited to one (1) night.

***Community treatment center:*** Structures and land used for the inpatient and/or outpatient treatment of alcohol and other drug abuse, for the evaluation of treatment needs, and /or for services to family members of patients in a program accredited by the Department of Mental Health/Division of Alcohol and Drug Abuse, the Commission for the Accreditation of Rehabilitation Facilities, the Joint Commission for the Accreditation of Hospitals, or the American Osteopathic Association.

***Convenience store:*** A retail establishment typically having a gross floor area of five thousand (5,000) square feet or less; primarily selling petroleum products, foods, as well as other household goods customarily sold in larger food markets and supermarkets.

***Conditional use:*** A use permitted in a particular zoning district only upon showing that such use in a specific location will comply with all the conditions and standards for the location or operation of such use as specified in this Article and authorized by the Board of Aldermen.

***Condominium:*** A building, groups of buildings or property in which units are owned individually and all the owners on a proportional, undivided basis own the common elements.

***Curb grade:*** The elevation of the established curb in front of the building measured at the center of such front. Where no curb grade has been established, the city engineer shall establish such curb grade or its equivalent for the purpose of this Article.

***Dance hall:*** Any place open to the public in which persons move with either backward, forward or side steps, accompanied by music.

***Depth of rear yard:*** The horizontal distance between the rear line of the main building nearest the rear property line, otherwise the rear lot line.

***District:*** A section of the City of Westphalia, for which the regulations governing the areas, heights or uses of buildings or lots are uniform.

**Drive-in facility:** A facility, typically accessory to a principal use, which encourages or permits customers to order, receive and consume goods and services while remaining in their motor vehicles.

**Duplex:** A structure on a single lot containing two dwelling units, each of which is totally separated from the other.

**Dwelling:** A building or portion thereof designed exclusively for residential occupancy, each with separate toilets and kitchen facilities and intended to function as separate dwelling units with, for example, individual utility meters, addresses, etc., but not including hotels, motels, boarding, rooming and lodging houses; and institutional care facilities.

**Dwelling, single-family detached:** A detached building surrounded by open space on the same lot designed exclusively for occupancy by one family or a foster home which provides 24-hour care for seven or less unrelated children.

**Dwelling, two-family:** See *Duplex*

**Dwelling, single family semi-detached:** A dwelling unit attached to one or more dwelling units by common vertical walls without opening, each unit located on a separate lot of record.

**Dwelling, multi-family:** A building or portion thereof arranged, designed or occupied as a residence by three or more individuals or families having separate quarters and living independently of each other.

**Efficiency apartments:** A building occupied or designed for living units in apartments containing not less than three hundred (300) square feet per apartment; excluding public halls, corridors, or stairways.

**Family:** The following living arrangements shall constitute a family:

- (a) One (1) or more persons related by blood, marriage, adoption or custodial relationship living as a single housekeeping unit; or
- (b) Four (4) or less unrelated persons living as a single housekeeping unit; or
- (c) Two (2) unrelated persons, plus their biological, adopted or foster children or other minors for whom they have legally established custodial responsibility, living as a single housekeeping unit.

Domestic servants, employed on the premises, may be housed on the premises without being counted as part of a family. The term *family* shall not be construed to mean a club or institutional group.

**Farming or truck gardening:** A tract of land cultivated by an owner or tenant for the purpose of supplying provisions or food.

**Feedlot:** A confined land area for fattening cattle or other animals or temporarily holding such animals for sale or shipping.

**Flashing light:** A continuously intermittent light or sequential light; but not including animation or lighting that changes the copy of a sign.

**Floor Area:** The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building intended for human or property occupancy.

**Frontage:** All the property fronting on one side of a street between the two nearest intersecting streets, or other natural barriers.

**Front lot line:** The line of the lot adjacent to the street on interior lots. On corner lots it is the prolongation of the front lot line of an interior lot.

**Funeral home:** A building used for the preparation of the deceased for burial and display, with ceremonies connected therewith before burial or cremation, but shall not include facilities for cremation.

**Garage, private:** A detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the premises.

**Glare:** The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Greenhouses:** A building consisting of glazed frames or sashes, used for the purpose of cultivating plants too tender to endure open air.

**Group home, residential:** A single family dwelling in which no more than ten (10) people reside, comprised of the following: eight or fewer unrelated mentally or physically handicapped persons, no more than two (2) persons acting as house parents or guardians who need not be related to each other or to any of the handicapped persons residing in the dwelling, and the children of the house parents or guardians.

**Height:** The height of a building or portion of a building shall be measured from the average established grade at the street lot line or from the average natural ground level, if higher; or if no street grade has been established to the highest point of the roof's surface. In measuring the height of a building the following structures shall be excluded: Chimneys, cooling towers, radio towers, ornamental cupolas, domes, or spires, elevator bulk heads, pent houses, tanks, water towers, and parapet walls not exceeding four (4) feet in height.

**Home occupation:** Same as Customary home occupations pursuant to Division 9, Section 127.

**Hospital:** An institution or place where sick or injured patients are given medical or surgical care, whether at public or private expense.

**Hospital, animal:** An establishment where there are facilities to lodge animals that are being treated by a veterinarian.

**Hotel:** A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals in which, as a rule, the rooms are occupied singly for hire, in which provision is not made for cooking in any individual room, and in which there are more than twelve sleeping rooms.

**Hotel apartment:** A building or portion thereof designed for or containing both individual guest rooms or suites of rooms and dwelling units.

**Impervious surface:** Any part of a lot that is covered by buildings, structures, parking areas, driveways, and any other surfaces which reduce or prevent absorption of storm water.

**Kennel:** Any lot or premises on which four or more dogs, more than four months of age, are kept for commercial purposes.

**Loading space:** An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street or other appropriate means of access.

**Lot:** Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of these regulations, having not less than the minimum area required by these regulations for a lot in the district in which such land is situated, and having its principal frontage on a street or such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit or certificate of occupancy for a building on such land.

**Lot area:** The total horizontal area within the boundary lines of a lot.

**Lot, corner:** A lot situated at the intersection of two or more streets.

**Lot, depth:** The horizontal distance between the front and rear lot lines measured along the median between the two (2) side lot lines.

**Lot, front of:** The front of a lot shall be considered to be that side on the lot that fronts on a street. In the case of a corner lot, the narrowest side fronting on the street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two or more streets, the lot shall be considered to front on that street with the greatest number of lots front.

**Lot, interior:** A lot other than a corner lot.

**Lot lines:** The lines bounding a lot as defined herein.

**Lot of record:** A lot that exists as shown or described on a plat or deed in the records of the County Recorder of Deeds.

**Lot, reversed corner:** A corner lot the side street line of which is substantially a continuation of the front lot line of the lot or lots to its rear.

**Lot, through or double frontage:** A lot having frontage on two parallel or approximately parallel streets.

**Lot width:** The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lots lines.

**Luminaire:** A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

**Manufactured home:** A factory-built structure that is manufactured or constructed under the authority of 42 United States Code Sec. 5401 bearing a seal issued by the U.S. Department of Housing and Urban Development according to Missouri Statute 700.010 et seq. and meets current building code standards. It is to be used as a place of human habitation, but which is not equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame wheels or axles. A mobile home is not a manufactured home. Further, a manufactured home shall have:

- (a) A roof pitch of no less than three (3) inches of vertical rise to each twelve (12) inches of horizontal run; and
- (b) Roofing materials consisting of composite asphalt shingle, fiberglass shingle, wood shake, baked tile, or crushed rock; and
- (c) A roof overhang of no less than one (1) foot measured from the vertical side of the home, excluding attached porches, carports, or similar structures; and
- (d) Proper guttering attached; and
- (e) Siding material consisting of wood or wood products, stucco, brick, horizontal lap steel or aluminum, horizontal lap vinyl or rock.

**Mobile home park:** A site with required improvements and utilities for the long-term placement of mobile homes for dwelling purposes.

**Mobile home (trailer):** Any portable or mobile vehicle on wheels, skids, or rollers not structurally anchored to a foundation, either self-propelled, or propelled by an attached vehicle, animal, person or other propelling apparatus, which is used or may be used as living quarters or for commercial hauling and/or storage purposes, and herein referred to as a mobile home (trailer).

**Motel:** An establishment providing transient accommodations on a daily rate to the general public with at least twenty five (25) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

**Natural or artificial barrier:** Means any river, pond, canal, railroad, levee, embankment, or fence or hedge that prohibits a view of the use from the outside.

**Non-conforming building:** A building or structure or portion thereof lawfully existing at the time this Article became effective, which was designed, erected, or structurally altered for a use that does not conform with the use regulations of the district in which it is located.

**Non-conforming use:** A use which lawfully occupied a building or land at the time this article became effective and which does not conform with the use regulations of the district in which it is located.

**Nurseries:** A place where trees, shrubs, or flowering plants are raised from seed or otherwise in order to be transplanted or propagated for commercial purposes.

**Nursing home:** An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**Office, sales:** An accessory office to a principal use where sales are primarily generated by telephone or off site by salespersons with only incidental retail sales on site.

**Office, retail/warehouse combination:** A facility that provides combined office, retail and warehousing facilities for one or more businesses.

**Open space:** Area included in any side, rear or front yard of any unoccupied space on a lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves, porches or decks. Open space does not include driveways, internal streets and other forms of impervious surface. Water bodies that are not subject to public ownership may also be included as open space.

**Owner of record:** The person, corporation, trustee or other legal entity listed as owner of a premise in the records of the County Recorder of Deeds.

**Package liquor store:** An establishment where alcoholic beverages are sold for consumption off premises.

**Parking space, automobile:** Space within a building or a private or public parking area for the parking of one automobile.

**Person:** Any individual, corporation, association, firm, partnership, institution or other legal entity, singular or plural.

**Pick-up facility:** A facility typically accessory to a commercial establishment designed solely for the distribution of goods ordered before arriving at the establishment.

**Premise:** A premise is any tract of land which operates as a functional unit regardless of ownership or the number of lots. When developed, a premise has one or more characteristics including shared parking, common management, common identification, common access, or shared circulation systems.

**Principal building or structure:** A structure, or group of structures, in which the principal use of a premise is located.

**Principal use:** The primary or predominant use of a premise.

**Print shop:** A typically small retail establishment whose principal activity is to provide duplicating or document production services using photocopy, blueprint, word processing or offset printing equipment or small printing presses.

**Private club:** An organization of persons for special purposes or the support of sports, arts, literature, politics and the like.

**Rear lot line:** The line of the lot opposite the front lot line.

**Rear yard:** A space unoccupied except by a building or accessory use as hereinafter permitted, extending the full width of the lot between the main building and the rear lot line. Where there is an alley the depth of the rear yard may be measured from the rear lot line.

**Restaurant:** An establishment where food and drink is prepared and served for consumption on or off premise. If alcoholic beverages are sold, more than fifty (50) percent of gross income must be derived from the sale of food and non-alcoholic beverages for consumption on premise for the establishment to be classified as a restaurant.

**Servants' quarters:** An accessory building located on the same lot or grounds with the main building and used as living quarters for servants employed on the premises, not less than fifty percent of his or her time, and not rented or otherwise used as a separate domicile.

**Setback lines:** Setback lines of a property are those lines that locate the building on a lot with respect to the property lines.

**Side line:** Any lot line not a front line or a rear line.

**Story:** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between such floor and ceiling next above it.

**Story, half:** A story under a gable, hip or gambrel roof, the wall plates of which at least two opposite exterior walls are not more than two feet above the floor of such story, and which has an average height of not more than eight feet and covering a floor area of not more than seventy-five percent of the area of the floor on the story next below.

**Street:** A public way that extends primary means of access to abutting properties.

**Street, arterial:** Those streets that are used primarily for high to moderate speed, high volume, extended trip length between activity centers traffic.

**Street, collector:** A street or road primarily for the carrying of traffic from residential streets to the arterial streets and highways.

**Street, minor residential:** A street primarily for access to the abutting properties.

**Street width:** The horizontal distance between the side lines of a street, measured at right angles to the back of the curb or side lines if no curb exists.

**Structure:** Anything constructed or erected that requires location on the ground or attached to something having a location on the ground.



***Tavern:*** An establishment where fifty (50) percent or more of gross income is derived from the sale of alcoholic beverages for consumption on premise and where the serving of food and non-alcoholic beverages, as well as the sale of package liquors, are accessory activities.

***Tearooms:*** An establishment used primarily for the serving of non-alcoholic beverages for consumption on premise, with the sale of food as an accessory activity.

***Trailer park:*** Any plot of ground where accommodation is provided for two or more trailer homes used as living or sleeping quarters.

***Unnecessary hardship:*** When the landowner cannot utilize his property and conform to the district and other development regulations contained in this Article due to special circumstances or conditions of a physical nature that are unique to the property in question. Further, to claim unnecessary hardship, the present owner must not have created the unique physical condition.

***Use:*** The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

***Used car sales yard:*** An area used for the display and sale of used automobiles in operating condition and where no repair work is done except the minor adjustments of the cars to be displayed or sold on the premises.

***Width of side yard:*** The horizontal distance between that portion of the main building nearest the side property line and the sideline of the lot.

***Yard:*** An open space other than a court on the same lot between a building or group of buildings and the nearest lot line and which is unoccupied and unobstructed from the ground upward.

***Yard, front:*** A yard extending across the full width of the lot, between the nearest main building and the front lot line. The depth of the required front yard shall be measured horizontally from the nearest part of the main building to the nearest point of the front lot line.

***Yard, rear:*** A yard extending the full width of the lot, between the nearest main building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest part of the main building to the nearest point of the rear lot line.

***Yard, side:*** An open unoccupied space between the main building and the side line of the lot extending from the front yard to the rear yard. No part of an alley shall be used as part of the side yard.

#### **Sec. 100.4 General Provisions.**

A. **Permitted Uses:** No building or structure shall be built, moved, expanded or enlarged after the effective date of this Article, and no building, structure or land shall be used, occupied or designed for use or occupancy after the effective date of this Article except in a manner that is permitted by this Article. Existing uses authorized as a special use permit

may be continued, but shall not be permitted to expand or change use, except to bring the use into compliance with this Article for the respective zoning district.

- B. **Lot Size Requirements:** Except as permitted in Section 162, no building or structure, or part thereof, existing on the effective date of this Article shall be built, moved, expanded or enlarged, and no vacant land as of the effective date of this Article, shall be used, occupied or designed for occupancy:
  - 1) On a lot which is smaller in area than the minimum lot area required in the zoning district in which the building, structure, or land is located; or
  - 2) On a lot which is narrower than the minimum required lot width; or
  - 3) On a lot which is shallower than the minimum required lot depth.
  
- C. **Bulk Regulations:** No building or structure, or part thereof, existing at the effective date of this Article, shall be built, moved, expanded or enlarged and no vacant land at the effective date of this Article shall be used, occupied or designed for occupancy:
  - 1) So as to exceed the maximum lot coverage percentage or the maximum height for the zoning district in which the building or structure is located; or
  - 2) So as to provide any setback or front, side or rear yards that are less than the requirement specified for the respective zoning district.
  
- D. **Buffer-Yard Requirements:** All buildings, structures, and uses shall provide and landscape the buffer-yards required under the requirements of this Article.
  
- E. **Customary Home Occupations:** No home occupation shall hereafter be established, altered or enlarged in any residential district unless it is allowed as a use and complies with the conditions and restrictions imposed by Section 127.
  
- F. **Accessory Structures or Uses:** No accessory building, structure use, as defined in Section 124 shall hereafter be built, moved, established or enlarged unless such accessory building, structure or use is permitted.
  
- G. **Signs:** No sign shall be built after the effective date of this Article, and no existing sign shall be moved or remodeled, unless such sign complies, or will thereafter comply, with the restrictions imposed by Section 150.
  
- H. **Off-Street Parking:** No building or structure shall be built or moved after the effective date of this Article unless the minimum off-street parking spaces are provided in accordance with Section 147.
  
- I. **Number of Buildings on a Lot:** Not more than one (1) principal building shall be located on the same lot in any zoning district, except as provided below. In mobile home parks and in the R-3 Multi-Family District, any number of buildings may be established on a single lot as long as other restrictions of Article are satisfied.
  
- J. **Exceptions to Height Regulations:** Elevator machinery, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain a building, and fire or parapet walls, skylights, towers (excluding telecommunication towers), steeples, flagpoles, chimneys, and smokestacks are not subject to height limitations. No space above the height limit shall be used to provide additional floor space for the use being

conducted on the premises. In addition, separate structures such as water standpipes, water ground storage tanks, or similar structures are exempt from height limitations.

- K. **No Public Water or Sewer:** No use, which requires potable water or sewerage disposal to operate, shall be established on a parcel of less than three (3) acres, unless both public water and public sewer are provided.

**Sec. 100.5. Zoning Districts.**

The City of Westphalia shall be divided into seven (7) zoning districts, the location and boundaries of which are shown on the *Official Zoning Map*, which Map is incorporated in this Article by this reference, including:

- A. **“R-R” Rural Residential District:** A zone intended to accommodate low intensity residential uses on lots not less than forty thousand (40,000) square feet in area and to permit certain agricultural activities.
- B. **“R-1” Single Family District:** A zone designed to support single-family residential development at a maximum density of four (4) dwelling units per acre.
- C. **“R-2” Two Family District:** A district designed for single-family or two-family dwellings (duplex) at a maximum density of eight (8) dwelling units per acre.
- D. **“R-3” Multi-Family District:** A zone designed for multi-family dwelling units (apartments) with a maximum density of eighteen (18) dwelling units per acre.
- E. **“C-1” Neighborhood Business District:** A zone established to accommodate offices of all types, businesses providing services of all types, and individual retail stores that offer convenience goods and services normally considered a frequent necessity for residents of the community.
- F. **“C-2” Highway Commercial District:** A zone designed for uses that provide retail and other services either as part of a shopping center or intended to serve the motoring public. Commercial uses of this category require more signage, outside storage and display of goods, and access to a highway to accommodate customers or distribute goods.
- G. **“M-1” Manufacturing District:** A zone designed to accommodate uses that involve the fabrication or assembly of goods and warehousing uses. Activities are generally conducted entirely within a building with limited outdoor operations, including storage and display.

**Sec.100.6. Zoning Map and Rules for Interpretation.**

- A. **Incorporation of Official Zoning Map by Reference:** The City of Westphalia is hereby divided into the districts as listed in this Article and as shown on the *Official Zoning Map* which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Article. Such map shall bear the signature of the Mayor and attestation of the City Clerk and bear the Seal of the City. One of said originals shall be

hung in the office of the City Clerk. It shall be the duty of the City Clerk to keep up to date the originals, showing all changes, additions and amendments thereto and maintaining records of the date of passage by ordinance. Regardless of the existence of copies of the *Official Zoning Map* that from time to time may be published, the *Official Zoning Map* shall be located in the office of the City Clerk and this map shall be considered the final authority as to the current zoning status of land and water areas in Westphalia.

**B. Rules of Interpretation of District Boundaries:** Where uncertainty exists as to the boundaries of zoning districts as shown on the *Official Zoning Map*, the following shall apply:

- 1) Boundaries shown as approximately following the centerlines of streets, highways, or alleys shall be construed to follow centerlines.
- 2) Boundaries shown as approximately following platted lot lines shall be construed as following lot lines.
- 3) Boundaries shown as following City Limit lines shall be construed as following such City Limits.
- 4) Boundaries shown as following railroad lines shall be construed to be midway between the main tracks.
- 5) Boundaries shown as following shorelines of bodies of water shall be construed to follow such shorelines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, ponds, or lakes shall be construed to follow such center lines.
- 6) Where physical or cultural features existing on the ground are at variance with those shown on the *Official Zoning Map*, or in other circumstances not covered by paragraphs (a) through (e) above, the Board of Adjustment shall interpret the district boundaries.

**C. Classification of Vacated Right-of-Way:** Whenever any public right-of-way is vacated by official action of the Planning and Zoning Commission and Board of Aldermen, the zoning district adjoining each side of the vacated right-of-way shall automatically extend to the centerline of the vacated property; or, in the case where all of the vacated right-of-way shall revert to one property, the zoning district of the host property shall extend to the vacated area.

#### **Sec. 100.7. Annexations.**

All territory which may hereafter be annexed into the City of Westphalia shall be considered zoned in the most restrictive classification consistent with the property use and the Official Zoning Map unless the Board of Aldermen or the applicant designates otherwise prior to the annexation.

#### **Sec. 100.8. Separability.**

It is hereby declared to be the intention of the Board of Aldermen that the several provisions of this Article are separable, in accordance with the following rules:

- 1) If any court of competent jurisdiction shall adjudge any provision of this Article to be unconstitutional, invalid, or illegal, such judgment shall not affect any other provisions of this Article.
- 2) If any court of competent jurisdiction shall adjudge the application of any provision of this Article to a particular property, building or structure to be unconstitutional, invalid, or illegal, such judgment shall not affect the application of said provision to any other property.

**Sec. 100.9. Penalties.**

Any person violating or failing to comply with any provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than two hundred and fifty (250) dollars per day, for each day of noncompliance, pursuant to Section 89.120.2, RSMo.

**Sec. 100.10. Effective Date.**

This Article shall be in full force and effect as Article I, Westphalia City Code, from and after its passage and approval in the manner required by law.

**Secs. 101 to 102. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 2. "R-R" RURAL RESIDENTIAL DISTRICT**

**Sec. 103. Purpose of the Rural Residential District.**

This District is composed of those areas of the city whose principal use is large lot single-family and agricultural uses. The regulations are designed to ensure harmony between the primary uses of this District.

**Sec. 103.1. Uses Permitted.**

- A. Single family-dwellings, including manufactured homes as defined in Section 100.3, with no more than one dwelling per lot, excluding mobile homes.
- B. Golf courses, country clubs and other such membership clubs occupying an area of not less than forty (40) acres. Miniature golf and driving ranges are excluded as permitted uses.
- C. Family child care homes for children, provided that no more than ten (10) children not related to the operator shall be kept at any one time.
- D. Private utilities, substations
- E. Churches and other places of worship, schools, and academies.
- F. Any land owned by a unit of government.
- G. Customary home occupations, in accordance with Section 127.
- H. Accessory structures and uses, in accordance with Section 124.
- I. Residential group homes, in accordance with Section 137.

**Sec. 103.2. Conditional uses that may be permitted by the Planning and Zoning Commission and the Board of Aldermen in accordance with Section 143.**

- A. Parks, camp areas, recreation areas, arenas, or resorts owned by private organizations.
- B. Funeral homes, excluding crematoriums.
- C. Nursing homes.
- D. Cemetery on ten (10) acres or more.
- E. Medical institutions, such as hospitals.
- F. Veterinarian services, animal hospitals and kennels.
- G. Customary agricultural activities.
- H. Bed and breakfasts, in accordance with Section 144.

**Sec. 103.3 Area Requirements.**

Minimum size of lot:

Area:	40,000 square feet.
Lot frontage:	150 feet at front lot line.
Width:	150 feet at building line.

Maximum percentage of lot that may be occupied by buildings:

All buildings	25 percent
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Maximum height of buildings:

35 (thirty five) feet (two stories).

Minimum setback dimensions:

Front yard:	35 feet measured from front lot line. Where a lot has a multiple street frontage, as at an intersection of two streets, the front yard setback shall be 35 feet on all streets.
Side yard:	25 feet measured from side lot line.
Rear yard:	50 feet measured from rear lot line.

**Secs. 104 to 105. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 3. "R-1" SINGLE FAMILY DISTRICT**

**Sec. 106. Purpose of Single Family Residential District.**

This District is intended to promote and preserve urban single-family residential development at a maximum density of approximately four (4) building lots per acre. The principal land use is the single-family dwelling. Certain other uses necessary to serve governmental, educational, religious, recreational and other needs are allowed as conditional uses subject to restrictions intended to protect the single-family character of the District. Internal stability, harmony, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities as well as by considering the functional relationship between permitted uses in the District.

**Sec. 106.1. Uses Permitted.**

- A. Single-family dwellings, including manufactured homes as defined in Section 100.3, with no more than one dwelling per lot, excluding mobile homes.
- B. Churches and other places of worship, schools, and academies.
- C. Family child care homes for children, provided that no more than ten (10) children not related to the operator shall be kept at any one time.
- D. Privately owned and operated golf courses, country clubs and other such membership clubs occupying an area of not less than forty (40) acres. Miniature golf and driving ranges are excluded as permitted uses.
- E. Any land owned by a unit of government.
- F. Customary home occupations, in accordance with Section 127.
- G. Accessory structures and uses, in accordance with Section 124.
- H. Residential group homes, in accordance with Section 137.

**Sec. 106.2. Conditional uses that may be permitted by the Planning and Zoning Commission and the Board of Aldermen in accordance with Section 143.**

- A. Private utilities.
- B. Funeral homes, excluding crematoriums.
- C. Nursing homes.
- D. Cemetery on ten (10) acres or more.
- E. Hospitals, medical services, clinics, and sanitariums, except animal hospitals, clinics or sanitariums for contagious, mental, drug, or liquor addict cases.
- F. Bed and breakfasts, in accordance with Section 144.



**Sec. 106.3. Area Requirements.**

Minimum size of lot:

Area:	10,000 square feet.
Lot frontage:	75 feet at front lot line.
Width:	75 feet at building line.

Maximum percentage of lot that may be occupied by buildings:

All buildings:	40 percent for lots under 12,000 sq. ft. in area.
All buildings:	25 percent for lots over 12,000 sq. ft. in area.

Maximum height of buildings:

35 (thirty five) feet (2 stories ).

Minimum setback dimensions:

Front yard:	25 feet, measured from front lot line. Where a lot has a multiple street frontage, as at an intersection of two streets, the front yard setback shall be 25 feet on all streets.
Each side yard:	10 feet, measured from side lot line.
Rear yard:	10 feet, measured from rear lot line.

**Secs. 107 to 108. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 4. "R-2" TWO FAMILY DISTRICT**

**Sec. 109. Purpose of the Two-Family District.**

This District is intended to accommodate a variety of housing types, including single-family and duplex dwellings at low to moderate residential densities. The two-family district is also intended to serve as a transition between the single-family district and the multifamily district.

**Sec. 109.1. Uses Permitted.**

- A. Any use or conditional use permitted in the R-1 Single-Family District.
- B. Two-family dwellings.

**Sec. 109.2 Area Requirements.**

Minimum size of lot:

Area:	10,000 square feet.
Lot frontage:	75 feet at front lot line.
Width:	75 feet at building line.

Maximum percentage of lot that may be occupied by buildings:

All buildings:	40 percent
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Maximum height of buildings:

40 (forty) feet or two and one-half stories above the average finished grade.

Minimum setback dimensions

Front yard:	25 feet from the front lot line. Where a lot has a multiple street frontage, as at an intersection of two streets, the front yard setback shall be 25 feet on all streets.
Each side yard:	10 feet measured from side lot line.
Rear yard:	10 feet from the rear lot line.

**Secs. 110 to 111. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 5. "R-3" MULTI-FAMILY DISTRICT**

**Sec. 112. Purpose of the Multi-family District.**

The Multi-family District is intended to support apartment type developments at a maximum density of approximately eighteen (18) dwelling units per acre. Developments of this intensity should have access for vehicular traffic to fully improved streets that have adequate width and surface in order to accommodate increased traffic flow. Traffic circulation should be designed to minimize the impact on adjoining residential neighborhoods.

**Sec. 112.1. Uses Permitted.**

- A. Uses permitted in the foregoing R-2 District.
- B. Boarding, rooming, and lodging houses.
- C. Child care centers.
- D. Multi-family dwellings and apartment houses, including efficiency apartments.
- E. Private parking areas paved with an impervious all-weather surface.
- F. Private clubs and lodges, including recreation facilities owned by these organizations.

**Sec. 112.2. Area Requirements.**

Minimum size of lot:

Area:	7,500 square feet plus 2,250 square feet for each dwelling unit in excess of two.
Lot frontage:	75 feet at front lot line.
Width:	75 feet at building line.

Maximum percentage of lot that may be occupied by buildings:

All buildings:	40 percent
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Maximum height of buildings:

The maximum height of buildings in the "R-3" Multifamily District shall not exceed four (4) stories or sixty (60) feet above the average finished grade.

Minimum setback dimensions:

Front yard:	25 feet measured from front lot line. Where a lot has a multiple street frontage, as at an intersection of two streets, the front yard setback shall be 25 feet on all streets.
Each side yard:	10 feet measured from side lot lines.

Rear yard:

10 feet from rear property lines.

**Secs. 113 to 114. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 6. “C-1” NEIGHBORHOOD BUSINESS DISTRICT**

**Sec. 115. Purpose of the Neighborhood Business District.**

This District is intended for uses that provide goods or services primarily to people residing in adjacent residential areas. It also includes selected retail and service uses that are similar in land use intensity and physical impact to the neighborhood sales and service uses permitted in this District. This District is designed to accommodate the existing downtown as well as compact, freestanding commercial buildings or to function as a transition between more intense commercial uses and residential neighborhoods. Commercial uses permitted in this District are generally required to conduct business activities indoors. Because the permitted retail and service uses may be an integral part of the neighborhood, more restrictive requirements for light, air, open space, and building design are made than are provided in other commercial districts.

**Sec. 115.1 Uses Permitted.**

- A. All uses permitted in the R-3 District. Residential buildings erected in the C-1 District shall conform to the development regulations established in their respective Districts pertaining to setbacks, height, lot coverage, etc.
- B. Offices for professional and business use involving the sale or provision of services, including but not limited to:
  - 1) Accountant, appraiser, architects, brokers, engineers, insurance agents, interior decorators, landscape architects, lawyers, realtors, travel agency and similar types of professional uses.
  - 2) Artists, sculptors, photographers.
  - 3) Authors, writers, composers.
  - 4) Physicians, dentists, chiropractors, or other licensed medical practitioners, excluding facilities where significant diagnostic or out patient surgery is performed as normally associated with a clinic or hospital.
  - 5) Teachers of private lessons in art, music or dance.
  - 6) Museums, libraries, galleries and exhibit halls.
  - 7) Administrative offices of a single organization or by a single professional organization or society.
- C. Antique shops.
- D. Banks and financial institutions including automatic teller machines and drive-in facilities.
- E. Books or stationery stores.
- F. Community and family fitness centers.

- G. Service establishments including beauty parlors, barber shops, dry cleaning and laundry pick-up, shoe repair, self-service laundromats, express or mailing offices, printing or copying shops, and hearing aid and eye glass shops, electronic equipment sales and repair shop.
- H. Commercial photography establishments.
- I. Restaurants and coffee shops, excluding drive-in facilities.
- J. Retail or service establishments for the following types of uses: bakery, candy, dairy products, flowers, gifts, jewelry, hobby materials, meat, fish and poultry products, newsstands, pet stores and grooming, toys, sporting goods stores and video rental or sales, excluding drive-in facilities.
- K. Pharmacies.
- L. Hardware stores.
- M. Studios; art, music, drama, reducing, dancing, interior decorating.
- N. Tailor shops, clothing, and shoe stores.
- O. Shops dealing in customized clothing, including silk screening, iron-on transfers and all uses incidental thereto.
- P. Second hand goods (flea markets) and pawn shops.
- Q. Accessory structures and uses, in accordance with Section 124.

**Sec. 115.2. Conditional uses that may be permitted by the Planning and Zoning Commission and the Board of Aldermen, in accordance with Section 143.**

- A. Automobile service stations, excluding sales and salvage operations.
- B. Commercial greenhouses, nurseries and garden stores.
- C. Community treatment center.
- D. Grocery stores

**Sec. 115.3. Area Requirements.**

Minimum size of lot:

Area:	6,000 square feet.
Lot frontage:	60 feet at front lot line.
Width:	60 feet at building line.

Maximum percentage of lot that may be occupied by buildings:

All buildings:	40 percent
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Maximum height of buildings:

40 (forty) feet or two and one-half stories above average finished grade.

Minimum setback dimensions:

Front yard:

10 feet from the right-of-way line.

Where a lot has a multiple street frontage, as at an intersection of two streets, the front yard setback shall be 10 feet on all streets.

Side yard:

5 feet from the side lot line.

Rear yard:

10 feet from the rear lot line.

**Secs. 116 to 117. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 7. "C-2" HIGHWAY COMMERCIAL DISTRICT**

**Sec. 118. Purpose of the Highway Commercial District.**

This District is intended for business uses which provide essential commercial services and support activities of community and regional significance that require high visibility and may have higher environmental impacts in terms of noise, dust, glare, etc. which may make them incompatible with office or some retail uses. This District is also intended for businesses that combine wholesale and retail functions on site. Merchandise may be displayed outside without screening. This District is intended to function as a transition between industrial development and strictly commercial development.

**Sec. 118.1. Uses Permitted.**

- A. Any use or conditional uses permitted in the foregoing C-1 District, excluding any residential uses.
- B. Agricultural equipment sales and service, farm supply and feed stores.
- C. Auto repair, body and paint shops, radiator repair.
- D. Auto laundries or car/truck wash establishments.
- E. Automobile sales, including tire sales, and rental of new or used vehicles.
- F. Automobile parts and accessory stores, including installation and repair.
- G. Boat and marine sales and service.
- H. Bowling alleys.
- I. Builder's supply, lumberyards, contractor's equipment sales and service.
- J. Cold storage and self or mini-storage facilities.
- K. Drive-in, pick-up, and drive-through restaurants.
- L. Furniture and/or appliance stores (new and used), sales and service, including rentals.
- M. Heating and air-conditioning sales and service, including customized sheet metal fabrication as an accessory activity.
- N. Hotels and motels, and hotel apartments.
- O. Landscape company, sales and service.



- P. Medical equipment and supplies sales and rental.
- Q. Miniature golf courses and driving ranges.
- R. Mobile home and trailer parks.
- S. Monument sales, retail dealers.
- T. Pest control services.
- U. Animal hospitals, clinics and kennels.
- V. Plumbing shops.
- W. Commercial printing, publishing, book-binding, and photo-processing, including drive-through facilities.
- X. Produce market, retail.
- Y. Recreation vehicle or mobile home sales or service.
- Z. Retail stores and other shops for custom work or making of articles to be sold at retail on the premises.
- AA. Retail establishments which provide supplies and/or services primarily to commercial and industrial customers, such as janitorial services, packaging and shipping service, locksmith services, lithographing and engraving, and blueprinting businesses, glass and mirror sales.
- BB. Second hand or used car sales yard, not including wrecking and repairing.
- CC. Skating rinks, swimming pools, gymnasiums, privately owned/commercial.
- DD. Taxi and limousine transportation services.
- EE. Telecommunication facilities and towers exceeding one hundred (100) feet in height.
- FF. Theaters, motion picture and performing arts.
- GG. Tire repair and recapping.
- HH. Tobacco product sales.
- I I. Wholesale operations, sales office/warehouse combination.

**Sec. 118.2. Conditional uses that may be permitted by the Planning and Zoning Commission and the Board of Aldermen in accordance with Section 143.**

- A. Bars, cocktail lounges, and night clubs (including dance halls).
- B. Billiard or pool halls.
- C. Convenience stores, with or without gas pumps.
- D. Package liquor stores.
- E. Furniture upholstery and cabinet or carpentry shop.
- F. Advertising services (sign shop).
- G. Laboratories, offices and other facilities.
- H. Commercial laundry, dry cleaning, linen and towel supply service.

**Sec. 118.3. Area Requirements.**

Minimum size of lot:

Area:	6,000 square feet.
Lot frontage:	60 feet at front lot line.
Width:	60 feet at building line.

Maximum height of buildings:

Forty five (45) feet or three (3) stories above average finished grade.

Maximum percentage of lot that may be occupied by buildings:

All buildings:	40 percent
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Maximum height of buildings:

45 (forty five) feet or three stories above average finished grade.

Minimum setback dimensions:

Front yard:	10 feet from the lot line. Where a lot has a multiple street frontage, as at an intersection of two streets, the front yard setback shall be 10 feet on all streets.
Side yard:	0
Rear yard:	10 feet from the rear lot line.

**Sec. 118.4. Buffer-Yard Requirements.**

Whenever any development requiring C-2 Highway Commercial District zoning is proposed to be located adjacent to any residential zoning district, a buffer-yard consisting of screening and landscaping may be required as a condition for that rezoning.

**Secs. 119 to 120. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 8. "M-1" MANUFACTURING DISTRICT**

**Sec. 121. Purpose of the Manufacturing District**

Manufacturing includes establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufacturing products is considered manufacturing. Manufacturing activities are permitted as long as they do not have an adverse, long-term impact on neighboring properties resulting from dust, fumes, noxious odors, glare, vibration, or other atmospheric influence. M-1 manufacturing activities are generally conducted inside a building, although related outdoor storage and display is permitted.

**Sec. 121.1 Uses Permitted.**

- A. Any use or conditional use permitted in the foregoing C-2 District.
- B. Auction sales, flea markets and swap meets, permanent location; livestock sales.
- C. Archery and firearms ranges, commercial.
- D. Asphalt storage.
- E. Battery shops, sales and service.
- F. Black smithing.
- G. Bottling plant.
- H. Bus terminals, maintenance shops.
- I. Cabinet or carpentry shops.
- J. Candle manufacturing.
- K. Canvas goods shops, tents and awnings, manufacture, sales and rental.
- L. Carpet cleaning.
- M. Clothing, footwear, and leather goods manufacturing.
- N. Cold storage plants, dry ice storage.
- O. Concrete batching or transit mix plant (temporary use only).
- P. Construction materials manufacturing and storage.

- Q. Dairy supply dealers.
- R. Road machinery, heavy equipment and tools, sales and rental service.
- S. Heavy machinery, including diesel engine, repairs.
- T. Electronic component manufacture and assembly.
- U. Feed grinding and processing.
- V. Food products processing, storage, and distribution.
- W. Freight terminals.
- X. Furniture packing and crating.
- Y. Hatchery, fish or fowl.
- Z. Ice manufacturing.
- AA. Insulation applicator.
- BB. Irrigation sales and service.
- CC. Live stock sales.
- DD. Lumber mills and storage.
- EE. Machine shops.
- FF. Mattress and bedding manufacturer and renovator.
- GG. Magazine and newspaper printing.
- HH. Monument manufacture.
- II. Motor freight terminals and depots.
- JJ. Pharmaceutical manufacture.
- KK. Paper products manufacturing.
- LL. Plastic processing and converting.
- MM. Prefabricated house manufacture.
- NN. Sash and door manufacturing.
- OO. Seed storage and warehousing.

- PP. Sheet metal work shops.
- QQ. Spray painting.
- RR. Store and restaurant fixture manufacturing.
- SS. Storage of baling or rags.
- TT. Textile manufacturing.
- UU. Welding shops, industrial equipment and supply sales.

**Sec. 121.2. Area Requirements.**

Minimum size of lot:

Area:	10,000 square feet.
Lot frontage:	100 feet at front lot line.
Width:	100 feet at building line.

Maximum percentage of lot that may be occupied by building:

All buildings:	40 percent
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Maximum height of buildings:

No maximum

Minimum setback dimensions:

Front yard:	35 feet measured from front lot line. Where a lot has a multiple street frontage, as at an intersection of two streets, the front yard setback shall be 35 feet on all streets.
Side yard:	10 feet measured from side lot line.
Rear yard:	20 feet measured from rear lot line.

**Sec. 121.3. Buffer-Yard Requirements.**

Whenever any development requiring M-1 Manufacturing District zoning is proposed to be located adjacent to a residential zoning district, a buffer-yard consisting of screening and landscaping may be required for new development as a condition of that rezoning.

**Sec. 122 to 123. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 9. SUPPLEMENTAL REGULATIONS**

**Sec. 124. Accessory Structures and Uses – Purpose and Definition.**

An accessory structure is a building or structure that is located on the same lot as the main or primary building and is subordinate to and detached from the main building. Accessory uses are consistent with and supplemental to the permitted uses in the zoning district.

**Sec. 124.1. Permitted Accessory Structures.**

Any structure or use that meets the definition of an accessory structure or use may be allowed in any district.

- A. Accessory structures include, but are not limited to, the following list of examples:
- 1) Garages;
  - 2) Utility sheds;
  - 3) Private in-ground swimming pools and above-ground swimming pools more than two (2) feet high and associated bath houses;
  - 4) Green houses;
  - 5) Satellite dishes and antenna towers of less than 100 feet in height;
  - 6) Gazebos;
  - 7) Barns and stables;
  - 8) Well and wash houses; and
  - 9) Studios.
- B. Accessory structures shall be allowed under the following conditions:
- 1) On any lot in an “R” District having less than twenty thousand (20,000) square feet accessory structures, other than residences, may be permitted with no plumbing fixtures, except for a washing machine and /or a janitor type sink;
  - 2) On any lot in an “R” District having more than twenty thousand (20,000) square feet, accessory structures with plumbing fixtures may be used for servant’s quarters housing, as long as the structure is occupied by a servant employed on premises by the household occupying the main building; and
  - 3) On any lot in a “C” or “M” District accessory structures used for residential purposes are not permitted unless part of and/or connected to the main building.

**Sec. 124.2. Location of Accessory Buildings or Structures in a Residential District.**

An accessory building or structure in a residential district shall be located:

- 1) Not less than forty (40) feet back of the front building line for the main or principle building;
- 2) Not less than five (5) feet from the main building, when not constructed, intended, or used for human occupancy at any time;

- 3) Not less than five (5) feet from the rear lot line;
- 4) Not less than ten (10) feet from the rear lot line when not abutting an alley. When abutting an alley, then not less than ten (10) feet from the center line of such alley;
- 5) Not less than ten (10) feet from the side lot line.
- 6) Not less than ten (10) feet from any lot line for two-story accessory building or structure;
- 7) No accessory building or structure on a corner lot shall project beyond the front yard building line; and
- 8) Accessory buildings or structures shall comply with the height restrictions of the zoning district.

**Sec 124.3. Accessory Buildings or Structures in Commercial or Manufacturing Districts.**

The location of accessory buildings or structures in a commercial or manufacturing zoning district shall be located consistent with the height, setback, and bulk standards of that District.

**Secs. 125 to 126. Reserved.**

**Sec. 127. Customary Home Occupations – Purpose and Definition.**

This section is designed to define what constitutes a home occupation and to enumerate the particular home occupations that are permitted. Customary home occupations are defined as any activity carried out for compensation in a residential dwelling unit. No home occupation shall be permitted if it:

- A. Changes the outside appearance of the dwelling or is visible from the street;
- B. Generates traffic, parking, sewage, water use or noise in excess of what is normally found in a residential neighborhood;
- C. Creates a hazard to person or property, results in electrical interference or becomes a nuisance; or
- D. Results in outside activities, storage or display.

**Sec. 127.1. Customary Home Occupations Permitted.**

Customary home occupations include, but are not limited to, the following activities:

- A. Home offices for architects, engineers, lawyers, realtors, insurance agents, brokers, ministers, rabbis, priests, salesmen, sales representatives, manufactures representatives, home builders, home repair contractors and similar occupations;
- B. Artists, sculptors, authors, photographers and composers;
- C. Computer programming and data processing;

- D. Direct sale product distribution (Amway, Avon, Tupperware, etc.) provided parties for the purpose of selling merchandise or taking orders shall not be held more than once a month, shall be limited to ten (10) customers and shall be held between the hours of 9:00 a.m. and 10:00 p.m.;
- E. Dressmakers, seamstresses, and tailors;
- F. Home crafts, such a model making, rug weaving, woodworking, ceramics (with a kiln up to six (6) cubic feet) and similar activities, provided that no machinery or equipment shall be used or employed other than that which would customarily be found in the home or machinery and equipment that would ordinarily be employed in connection with a hobby or avocation;
- G. Mail order, not including retail sales from site;
- H. Music and art teachers or other tutoring services.
- I. Renting sleeping rooms and serving meals to not more than two (2) persons not members of the family occupying the dwelling unit provided one (1) off-street parking space is provided for each person;
- J. Telephone answering service;
- K. Washing and ironing service;
- L. "Work at home" activities where employees of a business, located at another location, perform work for the business in their own residence, provided all physical contact between the business and the employee occurs at the place of business and not the residence, other than the initial installation of any equipment or other work facilities. The work activities of the employee shall conform to all other requirements of this Section.

**Sec. 127.2. Use Limitations.**

- A. No person other than someone related by blood, marriage, adoption or custodial relationship to the person conducting the home occupation and who also resides in the dwelling unit shall be employed in the home occupation;
- B. The home occupation shall be conducted entirely within the principal residential building and shall be limited to one (1) room;
- C. No manufacturing or processing of any sort whatsoever shall be done, except as permitted by Section 127.1 F;
- D. A one and one half (1 1/2) square foot unlighted sign may be used to advertise the presence or conduct of the home occupation;
- E. No stock in trade shall be displayed or sold out of the premises;



- F. No stock in trade, except articles produced by members of the family residing on the premises, shall be stored on the premises;
- G. No alteration of the principal residential building shall be made which changes the character thereof as a dwelling;
- H. The home occupation shall not produce offensive noise, vibration, smoke, electrical interference, dust, odors or heat. Any noise, vibration, smoke, electrical interference, dust odors, or heat detectable beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multifamily structure, shall constitute a violation;
- I. No mechanical or electrical equipment other than normal domestic or household equipment shall be used;
- J. There shall be no outdoor storage of equipment or materials used in the home occupation;
- K. The receipt or delivery of merchandise, goods or supplies for use in a home occupation shall be limited to the United States mail, similar parcel delivery service, or private vehicles with a gross vehicle weight rating of twenty four-thousand (24,000) pounds or less; and
- L. Not more than one (1) commercial vehicle utilized in the business shall be parked on site at any one time.

**Sec. 127.3. Particular Occupations Prohibited.**

- A. Animal hospitals, stables or kennels;
- B. Auto repairing and painting;
- C. Barber shops and beauty parlors with more than one (1) operator;
- D. Boarding and lodging houses, unless permitted by district regulations;
- E. Dispatching of transfer and moving vans, taxi cab services; and
- F. Palm reading, fortune telling, tattoo or body piercing parlors.

**Secs. 128 to 129. Reserved.**

**Sec. 130. Supplemental Open Space and Yard Regulations.**

In addition to the area requirements set out before, the following open space and yard regulations shall also apply:

**Sec. 130.1. Front Yard Regulations.**

All property shall have a front yard not less than prescribed by this Article. Where front yard setback of existing nearby buildings fronting the same street is less or greater than the required front yard setback, any new building or structure hereafter erected or structurally altered or enlarged shall conform to such established setback as follows:

- A. On interior lots where the frontage is located between two (2) intersecting streets:
  - 1) The front yard setback line shall not be less than the average setback of the two (2) adjacent developed lots fronting the same street; or
  - 2) If only one (1) adjacent lot is developed, the setback shall not be less than the average between the existing adjacent building and the minimum required front yard setback of the vacant lot; or
- B. Existing buildings with front yard setbacks greater than fifty (50) feet shall be figured at fifty (50) feet when determining the average setback line; and
- C. Off-street parking spaces located in the front yard of property zoned for residential use shall be limited to hard surfaced driveways and/or parking areas.

**Sec. 130.2. Yards Open.**

Except as specified in this Section, all yards required by this Article shall be open and unobstructed to the sky.

**Sec. 130.3. Exceptions to Yard Regulations.**

- A. Where compliance with the yard regulations cannot reasonably be accomplished because of irregular shaped lots or hillside lots; the Board of Adjustment may modify such regulations.
- B. Where an irregular shaped lot has more area than required for its particular district, lot width may be computed including the most useable portion satisfying the minimum area requirements.

**Sec. 130.4. Permitted Projections and Structures in Required Yards.**

The following projections may be located in a required yard:

- A. Cornices, eaves, gutters, belt courses, sills, awnings, canopies or other similar architectural features, shall not extend or project into a required side yard more than two (2) feet and shall not extend or project into a required front or rear yard more than three (3) feet;
- B. Open fire escapes shall not extend or project into any front, side or rear yard more than four (4) feet;

- C. Open stairways or balconies, not covered by a roof or a canopy, shall not extend or project into a required rear yard more than three (3) feet, and such balconies shall not extend into the required front yard more than three (3) feet;
- D. Enclosing or temporarily enclosing of porches, steps, platforms, carports, landing places and outside open stairways that extend into minimum required yards is prohibited;
- E. Any fence or hedge in the front yard shall comply with the provisions of Section 133.
- F. Fixed awnings, canopies and marquees shall be located at least eight (8) feet above a sidewalk and shall not project closer than two (2) feet to the curb;
- G. One-story bay windows shall not project more than thirty (30) inches into a yard;
- H. Chimneys may project thirty (30) inches or less into yard, provided that such projection does not reduce the width of a side yard to less than three (3) feet;
- I. Statuary, arbors and trellises;
- J. Flag poles;
- K. Signs, as permitted in this Article; and
- L. Open porches, platforms, and carports that do not extend above the first floor of the building shall not project more than ten (10) feet into any yard provided that said projection shall be at least ten (10) feet from the rear or front lot line, three (3) feet from the side lot line on interior lots and ten (10) feet from the side lot line adjacent to the street on corner lots.

**Sec. 130.5. Permitted In Any Yard, Except Front Yards:**

- A. A child's playhouse;
- B. Recreational equipment and clotheslines; and
- C. Fences not exceeding seven (7) feet in height and which comply with the provisions of this Article.

**Sec. 131 to 132. Reserved**

**Sec. 133. Vision Obstruction Restrictions - Purpose.**

The following Section is intended to establish regulations governing the placement of natural or man-made obstructions to vision.

**Sec. 133.1. Obstructions in Required Yards.**

- A. On any lot where a front yard is required or corner lot, no building, wall, fence or other structure shall be constructed and no hedge, tree, shrub, or other growth or object of any kind shall be maintained in such location within the yard so as to obstruct the view of pedestrians and motorists.
- B. Open fences not exceeding fifty (50) percent screening and four (4) feet in height above yard grade shall be permitted.
- C. Hedges, shrubbery, or other similar vegetation planted to form a continuous line of growth adjacent to any public right-of-way shall not exceed a height of four (4) feet.

**Sec. 134 to 136. Reserved.**

**Sec. 137. Residential Group Homes.**

Residential group homes for eight (8) or fewer unrelated mentally or physically handicapped persons that may include up to two (2) house parents or guardians when:

- A. The structure, building, landscaping, fencing, etc. for the residential group home suits the character of the immediate neighborhood.
- B. There are no other residential group homes within fifteen hundred (1,500) feet.
- C. No sign identifying the residential group home exceeds four (4) square feet in area. Signs may not be illuminated and must be attached to the residential group home.
- D. There are no more than two (2) residents per bedroom.

**Sec. 138 to 139. Reserved.**

**Sec. 140. Supplemental Use Regulations**

**Sec. 140.1. Screening and Fencing.**

Any business located in a "C" or "M" District that utilizes outside storage shall provide screening and fencing from adjoining properties. Adequate screening shall be defined as a substantial barrier, fence, or screen a minimum of five (5) feet and a maximum of seven (7) feet in height and capable of effectively masking a specified area from outside observation. Consolidated refuse storage areas, for all uses other than single family and two-family dwellings, visible from the adjacent property lines shall be visually screened by a solid fence or wall, not less than the height of the refuse storage containers, on all sides except the side used for refuse pick-up service.

**Sec. 140.2. Screening and Fencing Standards.**

- A. Property owners may elect to use a solid masonry or concrete wall, or a solid wooden fence to satisfy screening requirements.
- B. An evergreen hedge may be used if the shrubs or trees measure at least two-thirds (2/3) of the minimum required height when planted and form a continuous, solid, visual screen.

**Sec. 140.3. Sight Distance and Utility Easements.**

- A. Strict compliance with these screening and fencing requirements shall not be required if it would cause visibility obstructions for motorists, particularly at intersections. The Board of Aldermen may also modify the requirements to the extent necessary to mitigate unnecessary hardships for property owners or when the provision of a screen or fence will not effectively mask the outside storage area due to the physical characteristics of the site, such as steep terrain.
- B. Any required screening or fencing may be modified to the extent necessary to minimize their impact on utility construction and maintenance of utility lines.

**Sec. 140.4. Maintenance of Screening and Landscaping Materials.**

Property owners shall be responsible for maintaining the required screening materials in a neat and orderly manner at all times. Any plant materials that die shall be replaced with healthy plant materials of similar variety and meeting the size requirements of this Section.

**Sec. 140.5. Enforcement.**

In the event of a nonconformity with the standards and criteria of this Section, property owners, including any known tenants or agents, shall be notified citing the violation and describing what actions are required to comply with this Section. The owner, tenant, or agent shall have thirty (30) days from the notice date to restore the required screening or landscaping. Failure to comply with the notice shall be considered a violation of this Article.

**Sec. 140.6. Mobile Home Placement.**

The placement of a mobile home for dwelling purposes in any District shall be prohibited except that such mobile home shall be located in a designated mobile home park. The parking or storage of a trailer home in any District shall be permitted, providing that no living quarters shall be maintained while such trailer is parked or stored.

**Sec. 140.7. Structures in Keeping with Surrounding Property.**

No tent, boxcar, shack, or other structure shall be constructed or moved in or onto any location in Westphalia if the structure does not conform to sanitary and health regulations,

does not meet basic construction standards for safety, or is not in keeping with the average value and construction type of established structures or buildings in the adjacent area.

**Sec. 140.8. Established Frontage on a Street.**

All lots to be used for construction purposes shall abut by their full frontage on a publicly dedicated street or a street that has received the legal status of such.

**Sec. 141 to 142. Reserved**

**ARTICLE I  
ZONING**

**DIVISION 10. CONDITIONAL USE PERMITS**

**Sec 143. Purpose of Conditional Use Permits**

The conditional use permit procedure is designed to provide the Planning and Zoning Commission and the Board of Aldermen with an opportunity for discretionary review of requests to establish uses or construct structures which may not be specifically allowed in a given zoning district, but may be deemed desirable or in the public interest to locate in that zoning district. The purpose of the review is to determine whether the proposed location of the use or structure is consistent with the overall intent of the zoning district regulations and to permit the imposition of conditions designed to minimize or mitigate potential adverse effects. Conditional Use Permits do not constitute a zoning change and only allow for a designated use, on a specific lot or tract, within the established zoning district.

**Sec 143.1. Procedures.**

A Conditional Use Permit may be initiated by an application by one or more of the owners of record or owners under contract of a lot or tract of land, or their authorized representatives. Procedures for application, review, and approval of Conditional Use Permits shall be as follows.

An application for a Conditional Use Permit for a specific tract of land shall be addressed to the Planning and Zoning Commission and shall be filed with the City Clerk. The application shall be filed on forms prescribed for that purpose and be accompanied by the following:

- 1) Filing Fee of one hundred dollars (\$ 100);
- 2) The applicant's name and address;
- 3) The owner's name and address, including trustees, and, if different than the applicant, the owner's signed consent to the filing of the application and authorization for the applicant to act in his behalf;
- 4) The legal description of the property;
- 5) The zoning classification and present use of the property;
- 6) A brief description of the proposed conditional use;
- 7) A statement describing how the proposed conditional use will comply with the applicable standards of this Section; and
- 8) A statement describing how the proposed conditional use is to be designed, arranged and operated in order to ensure that future development that is consistent with District regulations will not be prevented or made unlikely, and that the value, use and reasonable enjoyment of such property will not be impaired or adversely affected.

**Sec 143.2. Burden of Proof/Standards.**

In presenting any application for a Conditional Use Permit, the burden of proof shall rest with the applicant to clearly establish that the proposed conditional use shall meet the following standards:

- A. The proposed conditional use complies with all applicable provisions of the applicable District regulations;
- B. The applicant has demonstrated that the proposed conditional use at the specified location will not adversely affect the safety of the motoring public or pedestrians;
- C. The location and size of the conditional use, the nature and intensity of operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning District regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
  - 1) The location, nature and height of buildings, structures, walls, and fences on the site; and
  - 2) The nature and extent of proposed landscaping and screening on the site; and
  - 3) The noise characteristics of the use compared to the typical use in the District and any reduction solutions; and
  - 4) The potential glare of vehicles and stationary lights on site and any measures employed to mitigate their impact; and
  - 5) Sign location, type, size, and lighting; and
  - 6) The impact on or potential interference with any easements, roadways, driveways, rail lines, utilities and storm water management systems.
- D. Off-street parking and loading areas will be provided in accordance with the standards set forth in this Article;
- E. Adequate utility, drainage, and other such necessary facilities have been or will be provided.

**Sec 143.3. Public Hearing.**

- A. The Planning and Zoning Commission in accordance with the provisions of this Article shall hold a public hearing on the application for a Conditional Use Permit.
- B. Subsequent to the public hearing, the City Clerk shall certify that the application is complete and shall prepare a report to the Planning and Zoning Commission. Upon receipt of said report and after the holding of a Public Hearing, the Commission shall recommend to the Board of Aldermen approval or denial of the Permit.

**Sec 143.4. Approval or Denial of a Permit by the Planning and Zoning Commission.**

- A. In recommending approval of conditional uses, the Planning and Zoning Commission shall impose such conditions as it determines necessary. Said conditions shall include but not be limited to the following:
  - 1) Permitted uses, including maximum floor area; or
  - 2) Screening requirements; or



- 3) Height limitations; or
  - 4) Minimum yard requirements; or
  - 5) Off-street parking and loading requirements; or
  - 6) Sign regulations; or
  - 7) Time limitations for commencement of construction.
- B. Upon denial by the Planning and Zoning Commission of an application for a Conditional Use Permit, the City Clerk shall notify the applicant of such recommendation. If no appeal is filed, the application shall be deemed denied. No subsequent application for a Conditional Use Permit with reference to the same proposed use shall be filed by any applicant until the expiration of twelve (12) months after the denial.

**Sec 143.5. Appeal of Denial Recommendation.**

Upon the recommendation of denial by the Planning and Zoning Commission of an application, the applicant may file an appeal with the Board of Aldermen requesting a determination by that body. A Notice of Appeal shall be filed within ten (10) days after the Commission's hearing is concluded. An appeal shall be in writing and shall be filed in duplicate with the City Clerk. The applicant shall have an additional thirty (30) days to file the actual appeal. The appeal shall specifically state how the application, as initially filed or subsequently modified, meets the criteria set forth in these regulations.

**Sec 143.6. Protest of the Commission's Decision.**

A protest against a proposed Conditional Use Permit may be filed in accordance with the provisions of this Article that address protest petitions for zoning cases.

**Sec 143.7. Board of Aldermen Review.**

In any case, subsequent to proper notification as described above, the Board of Aldermen may affirm, reverse or modify, in whole or in part, any determination of the Planning and Zoning Commission.

**Sec 143.8. Permit Effective-When.**

The Conditional Use Permit shall become effective upon approval by the Board of Aldermen. In the event that some additional approval is required by some other governmental authority or agency, the permit request shall not be acted upon until that approval is received.

**Sec 143.9. Procedure to Amend a Conditional Use Permit.**

In order to amend an existing Conditional Use Permit, the procedure shall be as follows:

- A. To amend a Conditional Use Permit:
  - 1) The property owner or authorized representative shall submit a written request to amend conditions. The City Clerk shall evaluate the request

- for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.
- 2) The City Clerk shall then forward the request and his report to the Planning and Zoning Commission. The Commission shall review the proposed amendments and file a report with the Board of Aldermen in which the Commission shall recommend to grant, deny or modify the requested condition amendments. If the Commission determines that the requested amendments are not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Commission may require a new public hearing on the matter in accordance with the provisions of this Article specified for amending the Zoning Ordinance.

**Sec 143.10. Time Limit of Conditional Use Permits.**

Conditional Use Permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Upon the expiration of the time limit specified in a particular permit, the property owner may request that the Conditional Use Permit be reviewed by the Board of Aldermen, which may extend it for an unlimited period or for a specified additional period of years.

**Sec 143.11. Failure to Commence Construction.**

Unless otherwise stated in the Conditional Use Permit, substantial work or construction shall commence within one (1) year of the effective date of the permit, unless such time period is extended through appeal to the Board of Aldermen. If no extension of time is granted the permit shall terminate.

**Sec. 144. Bed and Breakfasts-Purpose.**

The purpose of these requirements is to minimize any possible adverse effects of a bed and breakfast on the surrounding neighborhood while providing opportunities to make better use of existing housing, particularly larger, older houses located on major streets.

**Sec. 144.1. Approval Standards.**

All applicants for a Conditional Use Permit for bed and breakfasts shall comply with the following requirements:

- A. The use shall front on a public street; and
- B. The number of proposed guestrooms in the bed and breakfast shall be stated in the Conditional Use Permit application;
- C. Only short-term lodging shall be permitted, no monthly rentals.
- D. There shall be no individual cooking facilities.
- E. The facilities may be rented for receptions, parties, weddings or similar activities. Potential negative impacts, including, but not limited to, traffic, parking and noise, shall be addressed in the use permit application.
- F. One (1) additional paved parking space per guest room shall be provided in the rear yard.

- G. Only resident's guests shall be served meals.
- H. One (1) sign no larger than six (6) square feet shall be permitted. Signs may be illuminated.
- I. A business license shall be obtained annually, if required by the City.

**Sec. 145 to 146. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 11. OFF-STREET PARKING**

**Sec. 147. Parking Spaces Provided.**

In all zoning districts off-street parking facilities shall be provided for the temporary storage or parking of motor vehicles for the use of occupants, employees and patrons of buildings or structures constructed after the effective date of this Ordinance.

**Sec. 147.1. Parking Space Defined and Computed.**

A "parking space" shall mean a space of approximately two hundred (200) square feet, exclusive of drives or aisles giving access thereto, accessible to streets or alleys or aisles leading to streets or alleys and to be usable for the storage or parking of motor vehicles. Truck loading and unloading space as may be required by ordinance shall not be construed as supplying required off-street parking space. When a determination of the number of parking spaces required by this Division results in a fractional space, the fraction shall be counted as one (1) parking space.

**Sec. 147.2. Shared Parking Areas.**

The parking spaces required of two (2) or more uses located on the same lot may be combined and used together, however the aggregate number of off-street parking spaces required for all such uses shall be provided.

**Sec. 147.3. What Various Terms Include.**

- A. **Floor Area:** In the case of offices, merchandising or service types of uses shall mean the gross floor area used or intended to be used for a service to the public as customers, patrons, clients or patients, or as tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise, for show windows, or for offices incidental to the management or maintenance of stores or buildings. Floors or parts of floors used principally for toilet or rest rooms or for utilities, or for fitting rooms, dressing and alterations rooms, halls, storage rooms, file rooms, stairways, elevators shall be excluded.
- B. **Seating Space:** In churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty (20) lineal inches of such seating facilities shall be counted as one seat for the purpose of determining requirements hereunder.
- C. **Number of Employees:** The number of employees shall be computed on the basis of the greatest number of persons to be employed at any one period during the day or night.

**Sec. 147.4. Location of Parking Facilities.**

No motor vehicle or trailer shall be parked in the required front yard of a lot or tract in any Residential District or a lot or tract used for residential purposes in any other District, excluding lots or tracts in the R-R Rural Residential District, except on a driveway or an impervious surface leading to a required off-street parking space(s).

**Sec. 147.5. Required Spaces.**

**A. Residential and Lodging Uses:**

Single-family, duplex, manufactured homes on individual lots: One (1) for each dwelling unit.

Mobile Homes: One (1) for each dwelling unit.

Multi-family dwellings: One and one-half (1-1/2) for each dwelling unit.

Boarding, rooming and lodging houses: One (1) for each lodging room.

Hotels and motels: One (1) for each sleeping room, plus any spaces required for accessory uses such as restaurants, cocktail lounges, meeting rooms, etc.

**B. Business and Commercial Uses:**

Restaurants: One (1) for each three (3) seats provided for patrons use for restaurants, including night clubs, lunch counters, diners and all other similar dining or drinking establishments with no pick-up or drive-thru service. Restaurants with pick-up service or drive-in facilities, including seasonal shaved ice or ice cream stands, shall provide at least one off-street parking space for every one hundred (100) feet of gross floor area, and in no case less than six (6) off-street parking spaces.

Business or professional offices: One (1) for each two hundred (200) square feet of total building floor area used or intended to be used for service to the public or as workspace for employees.

Retail or mercantile establishments: One (1) off-street parking space for each one-hundred fifty (150) square feet of gross floor area used or intended to be used for service to the public as customers, patrons and clients.

Retail establishments over forty thousand (40,000) square feet: One (1) for each three hundred (300) square feet of total building floor area, excluding on-site warehouse space not used for the display of goods for sale.

**C. Industrial and Warehouse Uses:**

Manufacturing uses: Two (2) for each three (3) employees.

Cartage and express facilities: Two (2) for each three (3) employees, plus one (1) for each vehicle kept on the premises.

Terminal facilities: Two (2) for each three (3) employees, plus one (1) for each truck or semi-trailer kept on the premises.

Warehouse facilities: One (1) for each employee, plus one (1) for each vehicle kept on the premises.

**D. Schools, Institutions and Places of Public Assembly:**

Places of public assembly: One (1) for each four (4) seats or fifty (50) square feet of building space used or intended to be used for assembly by the public, whichever is greatest.

Private schools: One (1) for each eight students, plus one (1) for each employee.

Day care centers and nursery schools: One (1) for each employee and one (1) for each five (5) children.

Nursing homes and similar facilities: One (1) for each three beds plus one (1) for each two (2) employees.

**Sec. 147.6. Parking Area Surface.**

Every parking area shall be paved with an all weather surface and shall be used only for parking and shall have entrances and exits.

**Sec. 147.7. Parking Area Lights.**

Any lights used to illuminate parking areas shall be so arranged and hooded as to confine all direct light rays entirely within the boundary lines of the parking area.

**Secs. 148 to 149. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 12. SIGNS.**

**Sec. 150. Purpose of Sign Regulations.**

The purposes of these sign regulations are: (1) to encourage the effective use of signs as a means of communication in Westphalia; (2) to maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth; (3) to promote pedestrian and traffic safety; (4) to minimize the possible adverse effect of signs on the enjoyment and economic value of nearby public or private property; (5) and to enable the fair and consistent enforcement of these restrictions.

**Sec. 150.1. Definitions.**

- A. **Animation:** Any action or motion other than flashing lights and automatic changeable copy in an attempt to develop a pictorial scene through the movement of lights or parts of a sign.
- B. **Attached Sign:** Any sign substantially and permanently attached to, applied on, structurally connected to, painted on, or supported by, any part of a building.
- C. **Copy:** The letters, figures, characters, representations, pictures or wording on a sign, including any identification, description, symbol, trademark, object, design, logo, illustration, or device illuminated or non-illuminated which directs attention to a product, service, place, activity, person, institution, business, or solicitation, including any permanently installed or situated merchandise; or any emblem or painting designed to advertise, communicate, identify, or convey information.
- D. **Billboard:** An off-premise sign.
- E. **Detached Sign:** Any freestanding sign, and including any inoperable vehicle or any trailer located for the primary purpose of advertising.
- F. **Directional Sign:** An on-premise informational sign.
- G. **Effective Area:** The effective area of sign shall be computed from the area enclosed by the perimeter upon which sign copy are placed, except that when individual letters, numbers, logo, etc. are mounted individually and directly upon a building surface without a change in color or appearance of the surface background, the effective area of the sign shall be deemed to be the rectangle or other geometric form that encompasses the letters, numbers, logo, etc. One (1) face of a double-sided sign shall be used to determine effective area.
- H. **Internally Illuminated Signs:** Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than reflected off the surface of the sign from an external source.

- I. **Off-Premise Sign:** Any sign intended or used to advertise or inform the public of uses, goods, services offered off the premises where the sign is located.
- J. **On-Premise Sign:** Any sign designating the name of the owner or occupant of the premises upon which the sign is placed, or identifying such premises; or advertising goods manufactured or produced or services rendered on or listing the sale or lease of, the premises upon which the entire sign is located.
- K. **Portable Sign:** Any non-exempted sign which:
  - 1. Is not permanently attached to any structure, building, or the ground; and
  - 2. Is designed and constructed to be movable from one location to another.
- L. **Street Frontage:** The distance for which a lot line adjoins a public street right-of-way, from one lot line intersecting the right-of-way to the furthest distant lot line intersecting the same right-of-way.
- M. **Temporary Sign:** Any sign intended to be used for a limited period of time and constructed of paper, cloth, cardboard, foam board, or other similar material.

**Sec. 150.2. Exempt Signs.**

The following signs shall not require the issuance of a sign permit, but must conform to other City codes. These signs are allowed in addition to all other signs allowed under this Article.

- A. **Address Numbers and Name Plates:** Address numbers for each residential and business building shall not exceed one (1) square foot in effective area per character, and one (1) name plate not exceeding two (2) square feet in effective area per dwelling unit or business.
- B. **Banner Sign:** A sign composed of highly flexible lightweight material which is not posted for more than thirty (30) days per calendar year and does not exceed forty (40) square feet in effective area.
- C. **Directional Signs:** Detached on-premise directional signs that do not exceed five (5) square feet in effective area. No part of the sign shall exceed four (4) feet in height above finished grade, excluding berms or other landscaping features.
- D. **Flags:** Flags of any nation, state, county, city or other government unit, or any flexible material which displays an adopted design, symbol, color, or script.
- E. **Temporary Displays:** Non-commercial signs, flags, banners, or other materials temporarily displayed in conjunction with traditionally accepted patriotic, religious, seasonal celebrations, holidays, community events, or charitable drive.



- F. **Government Signs:** Any sign erected or maintained by or for any agency of government pursuant to and in discharge of any government function or required or authorized by law, ordinance, or governmental regulations.
- G. **Political Signs:** Temporary political signs announcing the candidates seeking public office and other pertinent information. Political signs shall be removed within fourteen (14) days following a general election.
- H. **Internal Signs:** Any on-premise sign, the copy of which cannot be viewed from a public right-of-way or adjoining residential property.
- I. **Neighborhood Identification Sign:** A detached sign, masonry wall, landscaping or similar material or features which, when combined, form a display for neighborhood or tract identification consisting of the neighborhood, subdivision, tract, or historic district name.
- J. **Real Estate Sale, Lessee and Construction Signs:** A detached or attached non-illuminated temporary on-premise sign pertaining to the construction, sale, or lease of that premise, not to exceed thirty-four (34) square feet in effective area in the Rural Residential District or commercial or industrial zones and not to exceed six (6) square feet in effective area in other residential zones. Real estate, lessee and construction signs shall be removed within fourteen (14) days after closing of the sale or lease or within thirty (30) days after the completion of construction.
- K. **Vehicular Signs:** Any permanently attached vehicular sign advertising a business which regularly uses the vehicle for transportation off-premise and is licensed by the State of Missouri for current operation.
- L. **Miscellaneous Exempt Signs:**
  - 1. Signs located on machinery or equipment that are necessary and customary to a business, such as gasoline pumps or vending machines.
  - 2. Temporary residential garage, estate, or public auction sale signs.
  - 3. Signs used as part of a public bench provided it does not interfere with driver vision or pedestrian movement.
  - 4. Signs on facilities located in public places that provide information that is incidental to a sponsored activity, such as a scoreboard or time clock.
  - 5. Building memorial signs or tablets reflecting building names, construction dates, and other relevant information when cut into any masonry surface, cast in metal, or constructed of other non-combustible material.
  - 6. On-premise attached or detached bulletin boards no more than thirty-four (34) square feet in area for public, not-for-profit, or religious institutions.
  - 7. Temporary attached or detached signs not exceeding six (6) square feet in

effective area advertising drives or events of a charitable, educational, or religious nature, provided that such sign shall be posted only during the drive or event for no more than thirty (30) days per year.

8. Historic landmark signs attached to any locally or nationally designated historic site, landmark or used to identify an historic district.
9. Lettering painted on a window or door of a business; and window signs located inside a building, excluding flashing or animated illuminated signs.
10. Private parking signs not to exceed three (3) square feet in effective area.

**Sec. 150.3. Exempt Operations.**

The following operations shall not require the issuance of a sign permit:

- A. Changing the copy on an existing permitted sign which is specifically designed for the use of manually or automatically changeable copy, including billboard panels and posters; but not including changes in the structure, size, placement, or location of the sign; and
- B. Maintenance, including repainting, cleaning, or other normal repair of an existing sign not involving structural changes in size, location, or placement.

**Sec. 150.4. General Sign Provisions.**

- A. No private sign shall be allowed to be located within or projecting over any public property, including right-of-way.
- B. The following signs are prohibited, which:
  1. Employ flashing or animated features; or
  2. Employ any searchlights or strobe lights; or
  3. May be confused with or construed as a traffic control sign, signal, or device, or the light of an emergency vehicle or road equipment by reason of their size, location, movement, content, coloring, or manner of illumination; or
  4. Shield from view any traffic control device, sign, signal or other government sign; or
  5. Are attached to any public utility pole, tree, fire hydrant, curb, sidewalk, or other surface located on public property.
- C. Illuminated signs shall be designed, located, and constructed to reduce glare and shall not be placed to permit focused light to be directed or beamed upon a public right-of-way, so as to cause a traffic hazard, or adjacent premises not under the same ownership and control, so as to create a nuisance.

- D. All signs, together with their supports, braces, connections, or anchors shall be kept in good repair. Unsafe signs, damaged, or deteriorated signs, or signs in danger of breaking apart or falling shall be removed or repaired by their owner upon written notice by the City.
- E. Signs may be erected near the intersection of two (2) streets or a driveway/street intersection provided the location of such sign does not create a sight distance problem by obstructing the vision of motorists or pedestrians.

**Sec 150.5. Provisions for Residential Zoning Districts.**

- A. **General Provisions:** Only on-premise signs are permitted. Signs may be internally illuminated.
- B. **Detached Signs:** One (1) detached sign shall be allowed for each premise containing either a multi-family use (three (3) or more units) or a permitted non-residential use. No detached sign shall exceed sixty (60) square feet in effective area or fifteen (15) feet in height above grade, as measured from the highest part of the sign, excluding supports.
- C. **Attached Signs:** One (1) attached sign shall be allowed for each premise containing a multi-family use or a permitted nonresidential use. The total effective area shall not exceed two (2) square feet of effective area per lineal foot of wall length upon which the sign shall be mounted. Attached signs shall not extend above the roofline or beyond the wall edge of the building.

**Sec. 150.6. Provisions for Signs in Non-Residential Zoning Districts.**

- A. **General Provisions:** No sign shall be permitted within twenty-five (25) feet of a residential zoning district boundary line.
- B. **Signs permitted in the "C-1" District:**
  - 1. Only on-premise detached and attached signs shall be permitted. Illuminated signs must be internally lit.
  - 2. Permanently attached flush mounted wall signs may be used not exceeding twenty (20) percent of the of the wall face, including any glass area. In no case shall an attached wall mounted sign project above the roof line or beyond a wall edge. Flush mounted wall signs shall not extend further than eighteen (18) inches.
  - 3. Projecting signs shall have a minimum clearance of ten (10) feet above grade as measured from the lowest part of the sign and shall not exceed twenty (20) square feet in effective area.
  - 4. A premise shall be permitted one (1) detached sign. The sign shall be limited to a maximum effective area of one hundred (100) square feet and shall be

limited to a maximum height of twenty (20) feet as measured from the highest part of the sign, excluding supports.

**C. On-premise signs permitted in any "C-2" or "M-1" District:**

1. All on-premise signs permitted in the preceding Section except that permanently attached wall signs may cover up to twenty-five (25) percent of the wall face, including any glass area.
2. On-premise signs may be externally or internally illuminated.
3. Detached on-premise signs may have one (1) surface containing copy in each direction. The maximum effective area shall be three hundred (300) square feet.
4. A premise shall be permitted to use up to two (2) detached signs, provided that the signs shall be separated by a minimum spacing of at least five-hundred (500) feet on the same side of the street between all other off-premise or on-premise detached signs. Detached signs are prohibited within one hundred twenty-five feet (125) of any residential zone. Premises may use detached, internally illuminated, menu board signs for restaurants if the sign does not front on a public right-of-way, in addition to other exempt or permitted detached signs.
5. All detached signs shall be limited to a maximum height of forty (40) feet as measured from the highest part of the sign, excluding supports.

**Sec. 150.7. Temporary Signs.**

- A. All temporary, portable non-exempt signs are prohibited.
- B. In the event a sign is substantially damaged through fire, flood, act of God, insurrection or similar emergency beyond the control of the business owner or occupant, a temporary sign shall be allowed for a period of time not to exceed one hundred twenty (120) days.

**Sec. 150.8. Outdoor Advertising Structures (Off-premise Billboards).**

Outdoor advertising structures, off-premise billboards, shall comply with all the requirements of this Section and shall only be permitted upon property having frontage on Highway 63 and zoned M-1.

**A. Area, Height, Location - Highway 63 Frontage:**

1. The maximum height of a billboard shall not exceed forty-five (45) feet from the highest point on the sign above the natural grade at the base of the sign or the adjacent street grade, whichever is higher. No part of structure shall extend below fifteen (15) feet.
2. The maximum surface area shall be six hundred seventy-two (672) square feet with a maximum sign height of 20 feet and a maximum sign width of forty

eight (48) feet. The sign shall be limited to two signs in each direction with one message per sign. In no case will the total sign surface in any one direction exceed six hundred seventy two (672) square feet.

3. Sign spacing shall be five hundred (500) lineal feet per side.

**B. Additional Regulations Governing the Use of Billboards.**

1. External lighting of billboards, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed toward any residential structure or into any portion of the main traveled way. The lights should not be of such intensity so as to interfere with the residential use of property or to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle.
2. No such sign shall be located in such a manner as to obstruct or otherwise interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic.
3. No part of any billboard shall be located on any public street or private utility easement, drainage easement, or railroad right-of-way.
4. All lineal distances required by this section shall be measured from the nearest outside edge of the subject sign, whether a support, structural member, or the sign surface itself, to the nearest outside edge of the corresponding sign.

**Sec 150.9. Non-Conforming Signs.**

- A. All signs, which have been lawfully erected, shall be deemed to be legal and lawful signs and may be maintained in good condition subject to the provisions of this Article.
- B. Non-conforming signs, which become deteriorated or dilapidated, other than by vandalism, must be removed within sixty (60) days or brought into compliance with the provisions of this Article.
- C. Non-conforming signs may be structurally repaired, but such signs shall not be moved, repaired, enlarged, or increased in height. Non-conforming signs that are enlarged or increased in height in violation of this Article shall be removed immediately.
- D. A non-conforming sign shall not be relocated or replaced, except when such relocation or replacement shall bring the sign into compliance with this Article. Non-conforming signs that are relocated in violation of this Article shall be removed immediately.
- E. Detached signs, billboards, and on-premise attached signs lawfully in existence on June 1, 2002, that do not conform to the provisions of this Article, shall be removed, altered or replaced so as to conform to the provisions of this Article no later than June 1, 2015.

- F. The sign face of a non-conforming sign may be altered if the sign face is not thereby enlarged.
- G. In cases of doubt or on a specific question raised whether a non-conforming sign exists, it shall be a question of fact decided by the Board of Adjustment.

**Secs. 151 to 152. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 13. NON-CONFORMING BUILDING, STRUCTURE,  
AND USE REGULATIONS.**

**Sec. 153. Purpose.**

The purpose of this Division is to recognize the legitimate interests of those who have lawfully established structures, buildings, or uses which are now non-conforming by permitting such non-conformities to be continued. The following regulations, however, are designed to prevent the expansion or extension of such non-conforming structures, buildings, or uses and to enhance the probability that such non-conformities will eventually be made to conform to the provisions of this Article.

**Sec. 153.1. Non-Conforming Land, Buildings and Structures.**

The owner or user shall have the burden to show that any land, lot, building or structure was a lawfully existing non-conforming use at the time this Article was adopted. The following restrictions shall apply:

- A. **Repair and Alterations:** Repairs and alterations may be made to a non-conforming building or structure, provided that no structural alteration shall be made except those required by law or ordinance, and further provided these regulations shall never be construed to allow an addition to a non-conforming building or structure.
- B. **Additions, Enlargements, and Moving:** A non-conforming building or structure shall not be added to or enlarged in any manner unless such additions and enlargements are made to conform to all the requirements of the district in which such building or structure is located. Non-conforming buildings or structures shall not be moved in whole or part to any other location on the lot, or on any other lot, unless every portion of such buildings or structures is made to conform to all the regulations of the district in which it is located after being moved.
- C. **Restoration of Damaged Buildings:** A non-conforming building or structure which is damaged or partially destroyed by fire, flood, wind, explosion, earthquake, or other calamity, or act of God, may again be restored or used for such non-conforming purpose. The term "partially destroyed" shall mean expenses of restoration that will not exceed seventy-five (75) percent of the replacement cost of the building or structure at the time such damage occurred. Any non-conforming building or structure partially destroyed may be restored provided restoration is started within twelve months of the date of partial destruction and is diligently prosecuted to completion. Whenever a non-conforming building or structure is damaged in excess of seventy-five (75) percent of its replacement cost at that time, the repair or reconstruction of such building or structure shall conform to all the regulations of the district in which it is located, and it shall be treated as a new building.

- D. **Change of Use:** Where no structural alterations are made in any building containing a non-conforming use, such use may be changed to one of a similar classification, but no building in which a non-conforming use has been changed to a more restricted use shall again be devoted to a less restricted use.

**Sec. 153.2. Effect of Vacancy.**

A vacant, non-conforming building or structure lawfully constructed may be occupied by the use for which the building or structure was designated or intended, if so occupied within a period of one (1) year after the effective date of this Article. The use of a non-conforming building or structure lawfully constructed which becomes vacant after the effective date of this Article may also be occupied by the use for which the building or structure was designated or intended, if so occupied within a period of one (1) year after the building becomes vacant.

**Sec. 153.3. Non-Conforming Uses.**

Any legal non-conforming use of part or all of a building or structure, or any lawfully existing non-conforming land use, not involving a building or structure or only involving a building or structure which is accessory to the primary land use, may be continued. The owner, occupant, or user shall have the burden to show that the use was lawfully established. The following restrictions shall apply to legal non-conforming uses:

- A. **Expansion Prohibited:** A non-conforming use of an otherwise conforming building or structure (e.g., commercial use in an R-1 District, etc.) shall not be expanded or extended into any other portion of such conforming building or structure nor changed except to a conforming use. If such non-conforming use or portion thereof is discontinued or changed to a conforming use, any future use of such building, structure, or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located.
- B. **Extension of Non-Conforming Use:** A non-conforming use shall not be extended, expanded, enlarged, or increased in intensity. An extension of a lawful use to any portion of a legal non-conforming building or structure, which existed prior to the enactment of this Article, shall not be deemed the extension of such non-conforming use.
- C. **Remodeling:** No building or structure that is devoted in whole or in part to a non-conforming use shall be remodeled, if structural alteration is required, unless the entire building or structure and the use thereof shall conform to all regulations of the zoning district in which it is located. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls or partitions, fixtures, wiring or plumbing, may be performed on any building or structure that is devoted in whole or in part to a non-conforming use without limitation.
- D. **Continuation of Non-Conforming Use of Land:** A non-conforming land use existing at the time of the effective date of this Article may be continued under the following conditions:



- 1) That no such non-conforming land use shall in any way be extended either on the same or adjoining property;
- 2) That if such non-conforming land use or any portion thereof is discontinued or changed, any future use of such land or portion thereof shall be in conformity with the provisions of this Article; and

E. **Abandonment of Non-Conforming Use:** A non-conforming use of any building, structure or land that had been abandoned shall not thereafter be returned to such non-conforming use. A non-conforming use shall be considered abandoned under the following circumstances:

- 1) When the characteristic equipment and furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment within one (1) year;
- 2) When a non-conforming building, structure or land or portion thereof which is or hereafter becomes vacant and remains unoccupied or out of use for a continuous period of one (1) year; or
- 3) When it has been replaced by a conforming use.

F. **Non-Conforming Accessory Uses:** No use that is accessory to a principal non-conforming use shall continue after such principal use shall cease or terminate.

**Secs. 154 to 155. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 14. CHANGES AND AMENDMENTS**

**Sec. 156. Changes and Amendments.**

The Board of Aldermen may from time to time by ordinance amend, supplement, change, modify or repeal the text or regulations herein or subsequently established. Before taking any such action, the Board of Aldermen shall submit the same to the Planning and Zoning Commission for its recommendation.

Zoning district classification amendments may be proposed by the Board of Aldermen or the Planning and Zoning Commission and by any governmental body or person having a financial, contractual, or proprietary interest in real property located in the City of Westphalia. The application for a zoning district classification amendment shall be made on a form provided by the City of Westphalia. On submission of any proposed change in classification, the applicant shall deposit with the City Clerk of the City of Westphalia an amount of money sufficient for publishing all notices of hearings and a processing fee of one hundred dollars (\$ 100). All applications and fees shall be filed with the City Clerk no later than the fourth Tuesday of each month for consideration during the following month.

**Sec. 156.1. Recommendations.**

The Planning and Zoning Commission may within its discretion, make one of the following recommendations in connection with each proposed re-zoning application.

- A. Recommend against the change in zoning.
- B. Recommend a change in zoning.
- C. Recommend a change in zoning for such area together with its recommendations as to requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to the public streets, provisions for drainage, parking spaces and street layouts and protective screening and open spaces and any other requirements which, within the discretion of the Planning and Zoning Commission, will protect adjacent property and secure substantially the purpose and intent of this Article.

**Sec. 156.2. Findings by the Planning and Zoning Commission.**

The Planning and Zoning Commission shall consider the following information when reviewing re-zoning requests:

- A. Whether the proposed zoning district classification is consistent with the intent of the Westphalia Comprehensive Plan;

- B. Whether there are any changed or changing conditions in the neighborhood affected that make the proposed rezoning necessary or desirable from an overall community development perspective;
- C. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity;
- D. Whether adequate utility service and facilities exist or can be reasonably provided to serve the uses permitted on the property if rezoned;
- E. Whether the impact the proposed uses would have upon vehicular and pedestrian traffic safety;
- F. Whether the proposed rezoning would correct an error in the application of this Article as applied to the subject property;
- G. Whether a reasonably viable economic use of the subject property will be precluded if the proposed rezoning is denied creating an economic hardship; and
- H. Relevant information submitted at the public hearing.

**Sec. 156.3. Report of Action Taken.**

Each such recommendation made by the Planning and Zoning Commission shall be reported to the Board of Aldermen and the applicant. The Secretary of the Planning and Zoning Commission shall set up and maintain a separate file for each application received, and all records and files herein provided shall be permanent and official files of the City of Westphalia.

**Sec. 156.4. Notice of Hearing Before Board of Aldermen.**

A public hearing shall be held by the Board of Aldermen before adopting any proposed amendment, supplement or change at which parties in interest and citizens shall have an opportunity to be heard. Notice of such hearing shall be made by publishing the same in a newspaper of general circulation available in the City of Westphalia, Missouri; the said notice shall be published at least fifteen (15) days before said public hearing before the Board of Aldermen and shall specify the time and place of such hearing and the location where the application and related documents may be viewed.

**Sec. 156.5. Action of Board of Aldermen.**

When the Planning and Zoning Commission has recommended a change in zoning together with recommendations, as to requirements as heretofore provided, the Board of Aldermen shall be at liberty to either accept, reject or make other or additional requirements, and any such requirements, in the discretion of the Board of Aldermen to be made, shall become a part of the ordinance changing the zoning classification of such property. Such requirements shall be considered as an amendment to the zoning ordinance as applicable to such property.

**Sec. 156.6. Two-Thirds Majority Necessary when Protested.**

In case of a protest petition against such change, duly signed and notarized, by the owners of thirty (30) percent or more of the land area (exclusive of streets and alleys) included in such proposed change or within an area determined by line drawn parallel to and one hundred eighty-five (185) feet distance from the boundaries of the district proposed to be changed, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the Board of Aldermen. The provisions of this Section apply to the adoption of, additions to, changes or modifications of the *Official Zoning Map*, whether such changes are initiated by the Board of Aldermen and the Planning and Zoning Commission or by property owner application.

**Sec 156.7. Limitation on Application for Re-zoning.**

No application for rezoning of any tract, lot or parcel of land within the City of Westphalia, other than an application initiated by the Board of Aldermen or the Planning and Zoning Commission, shall be filed or allowed prior to the expiration of twelve (12) months from the time that the Board of Aldermen shall have finally acted on any application for rezoning of all or part of the same lot, tract or parcel of ground. The Board of Aldermen may waive this requirement upon written request. The applicant may then reapply for a rezoning through the Planning and Zoning Commission and Board of Aldermen.

A rezoning application may be withdrawn upon request by the applicant at any point in the approval process, prior to final action by the Board of Aldermen, without requiring a twelve (12) month delay before reapplication. The Planning and Zoning Commission would first consider the new application.

**Secs. 157 to 158. Reserved.**

**ARTICLE I  
ZONING**

**DIVISION 15. ADMINISTRATION, ENFORCEMENT AND REVIEW**

**Sec. 159. Planning and Zoning Commission.**

The Planning and Zoning Commission shall consist of four (4) members appointed by the Board of Aldermen and shall serve without compensation. Members shall hold office for a term of three (3) years. Members may be re-appointed for a maximum of two (2) three-year terms. The Commission shall elect a chairman and secretary from its appointed members.

**Sec. 159.1 Procedure.**

Meetings of the Planning and Zoning Commission shall be held at the call of the Chairman and at such other times as the Commission may determine. All meetings of the Commission shall be open to the public except as otherwise provided by law. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. Every recommendation or decision of the Commission shall be in writing and shall contain the findings of the Commission in each case, which shall be immediately filed in the office of the City Clerk and shall be public record.

**Sec. 159.2 Powers and Duties.**

The Planning and Zoning Commission shall have the following powers and duties:

- A. Hold public hearings and make recommendations with respect to proposed amendments to the *Official Zoning Map*;
- B. Hold public hearings and make recommendations with respect to proposed amendments to the text of the *Westphalia Planning and Zoning Code* or proposed amendments to the *Official Zoning Map*; and
- C. Hold public hearings and make recommendations with respect to applications for conditional use permits.

**Sec. 159.3 Conduct of Hearings by the Planning and Zoning Commission.**

Public hearings conducted by the Planning and Zoning Commission on any matter over which it has jurisdiction shall be subject to the following rules.

- A. Any person who has an interest in the subject matter of the hearing shall be afforded an opportunity to present evidence, exhibits and argument, and to question, through the Chairman of the Commission, witnesses on all relevant issues, subject to the Chairman's imposition of reasonable limitations on the number of witnesses, and the nature and length of testimony and questioning.

- B. The Commission shall have a written record of each public hearing and its deliberations on the subject matter kept.
- C. Members of the Commission shall base their consideration of matters on which the Commission conducts a public hearing upon the following information and evidence:
  - 1) Testimony, exhibits and arguments presented at the hearing, and not upon direct or indirect communication with any party or representative of such party made outside of the hearing;
  - 2) Reports, memoranda and other materials prepared with the application and made a part of the record at the time of the hearing;
  - 3) Inspections of the site;
  - 4) The *Official Zoning Map* and adopted goals, objectives and policies related to community development; and
  - 5) The knowledge of matters of fact held by members of the Commission, provided and such factual matters shall be made part of the record at the time of the hearing; and any party to the hearing shall be given the opportunity to refute, expand upon or explain any such factual matters.
- D. The Commission shall adopt, and may from time to time amend, such additional rules as it may deem necessary or desirable for the efficient and orderly conduct of its business. Copies of such rules shall be available in the office of the City Clerk.

**Sec. 160. Zoning Enforcement.**

- A. **Notice of Violation:** Whenever a determination has been made that there are reasonable grounds to believe that a violation of any provision of this Article exists on any parcel of land within the City, the City Clerk shall give notice of such alleged violation to the owner or agent of said parcel as follows. Such notice shall:
  - 1) Be in writing and include a statement of any alleged violations, what remedial action(s) are to be taken, and any fines or fees associated with the enforcement of this Article;
  - 2) Allow a reasonable time for the correction of any violation or the performance of any required act;
  - 3) Be served upon the owner or his agent personally, by registered mail to his last known address, or is posted conspicuously in or about the building, structure, or sign affected by the action.
- B. **Abatement of Violation:** If a person violates this Article or if a notice of a violation is not complied with within the time specified by the notice, the City Clerk may cause a municipal court summons to be issued, and he may also request the City Attorney to institute the appropriate legal proceedings to obtain an injunction to restrain, correct or abate such violation or to acquire removal or termination of the unlawful use of a building, structure or sign in violation of the provisions of this Article or any order or direction made pursuant thereto.
- C. **Fines and Penalties:** Any person violating this Article, or failing to comply with any order issued pursuant to any Section thereof, shall be guilty of a misdemeanor and

upon conviction thereof shall be fined not more than two hundred fifty (\$ 250) dollars, per day, for each day of noncompliance. The City shall attempt to give notice when the violation does not pose an imminent danger and the owner has not previously been notified either orally or in writing regarding a violation of the same Section of this Article.

- D. **Legal Action:** The imposition of the fines herein prescribed shall not limit the City from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or use of building or structure in or about any premises, in violation of this Article.
- E. **Discontinuance of Illegal Use or Occupancy:** Whenever any building, site or portion thereof is being used or occupied contrary to the provisions of this Article, the City Clerk shall order such use or occupancy discontinued by notice served on any persons using or causing such use or occupancy to be continued. Such persons shall discontinue use or occupancy or make the building, site or portion thereof comply with the requirements of this Article within a time period not to exceed ten (10) days after receipt of such notice.

#### **Sec. 160.1. Inspection and Right of Entry**

In the discharge of his duties, an authorized representative of the City shall have the authority to enter at any reasonable hour any building, structure or premises in the City to enforce the provisions of this Article. Any person making such inspection shall furnish to the owner or occupant of the building or structure to be inspected sufficient identification and information to enable the owner or occupant to determine that he is a representative of the City and to determine the purpose of the inspection. Inspections may be prompted on the basis of complaint or as part of a systematic inspection program.

#### **Sec. 161. Board of Adjustment - Composition.**

The Board of Adjustment shall consist of five members, who shall be City residents. The members of the Board of Adjustment shall be appointed for staggered terms of five (5) years each and shall serve without compensation. No member shall serve more than two (2) consecutive terms and shall not be a current member of the Planning and Zoning Commission. All members shall be removable for cause by the appointing authority upon written charges and after public hearings. The Board shall elect its own chairman who shall hold office for one year. The Board shall also select a secretary who shall maintain a separate file for each application for appeal, special exception and variance received and shall record therein the names and addresses of all persons, and further keep a record of all notices published as required herein.

##### **Sec. 161.1. Procedures.**

Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board may determine. All meetings of the Board of Adjustment shall be open to the public except as provided by law. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to

vote, indicating such fact, and shall keep records of its examinations and other official actions. Every decision of the Board of Adjustment shall be in writing and shall contain a full record of the findings of the Board in each case, all of which shall be immediately filed in the office of the City Clerk and shall be a public record. The secretary of the Board of Adjustment shall notify in writing the Board of Aldermen and Zoning and Planning and Zoning Commission of each decision, interpretation, appeal, special exception and variance considered under the provisions of this Article.

**Sec. 161.2. Powers.**

The Board of Adjustment shall:

- A. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Article and may also decide any questions involving the interpretation of any of the provisions of this Article, including the location of any district boundaries, if there is uncertainty with respect thereto.
- B. In appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this Article in harmony with its general purpose and intent and in accordance with the general and specific rules herein contained.
- C. Authorize, upon appeal, in specific cases such variance from the terms of this Article as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions hereof will result in unnecessary hardship, and so that the spirit of this Article shall be observed and substantial justice done.

**Sec. 161.3. Appeals.**

Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the City of Westphalia affected by an administrative decision of the City Clerk. Such appeal shall be taken within fifteen (15) days time after a decision has been rendered. Such appeal shall be taken by filing with the officer from whom the appeal is taken and with the secretary of the Board of Adjustment a notice of appeal specifying the reasons. The officer from whom the appeal is taken shall send to the secretary of the Board all the papers constituting the record relating to the appealed action. The applicant for an appeal, however, shall bear the burden of producing evidence establishing the grounds of the appeal. In exercising the powers herein granted, the Board may, in conformity with the provisions of this Article reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members shall be necessary for an appeal to be approved by the Board of Adjustment.

**Sec. 161.4. Appeals to Stay Proceedings.**

A properly filed notice of appeal shall stay all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts



stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a proper court order.

**Sec. 161.5. Notice and Deposits.**

Notice of appeals shall be submitted not less than twenty eight (28) days prior to a regularly scheduled Board meeting. The applicant shall be notified in writing by registered mail of the date, time and location of the hearing. Upon filing a notice of appeal with the secretary of the Board of Adjustment, and before such appeal shall be construed as having been perfected, the applicant shall deposit the sum of fifty dollars (\$50.00) with the City Clerk to cover the cost of mailing and posting notices.

**Sec. 161.6. Limitation on Re-Filing.**

No appeal, request or application to the Board of Adjustment shall be allowed with respect to the same parcel of land, building, or structure prior to the expiration of six (6) months from the date of the ruling of the Board of Adjustment unless a substantial change of circumstances or conditions can be demonstrated by the applicant.

**Sec. 162. Exceptions and Variances.**

A "special exception" is a permission given by the Board properly authorized by this Article in specific cases for an applicant to use his property in a manner contrary to the provisions of this Article provided such use serves the general welfare and preserves the community interest. A "variance" is an authorization by the Board granting relief and doing substantial justice in the use of the applicant's property by a property owner where, owing to special conditions a literal enforcement of the provisions of the Article will result in unnecessary hardship. The Board of Adjustment may designate conditions on granting special exceptions or variances that secure the public interest and intent of this Article.

**Sec. 162.1. Notices of Hearings.**

Applications for special exceptions and variances shall be submitted on forms provided for this purpose not less than twenty-eight (28) days prior to a regularly scheduled Board meeting. Once the application has been determined to be complete, the Board of Adjustment shall hold a public hearing and written notice of all such public hearings shall be sent by the secretary of the Board to the applicant and all other persons deemed by the Board to be affected. Notices shall also be posted in three conspicuous places in the vicinity of the real estate to be affected, such notice to be posted not less than ten days before the date set for public hearing. Such notices shall state the time and place of such public hearing. Provided, however, all provisions contained herein with respect to the mailing and posting of notices of hearing shall be deemed sufficient upon substantial compliance with this Section, which is to be construed as directory and not mandatory.

**Sec. 162.2. Hearings.**

Any interested party may appear at the hearing in person or by agent or by attorney. The burden of proof shall be on the applicant to establish the facts necessary which the Board

of Adjustment must find before granting any special exception or variance as herein contained. The Board of Adjustment may impose such conditions and restrictions as may be necessary to comply with the standards set out in this Article to reduce, minimize, or mitigate the effect of such special exception or variance upon the property in the neighborhood, and to better carry out the intent of this Article. The concurring vote of four members of the Board shall be necessary to decide in favor to affect any variance of this Article or to grant any special exception. No request or application to the Board of Adjustment shall be allowed on the same piece of property prior to the expiration of six (6) months from a ruling of the Board of Adjustment on any request or application to such body unless other property abutting or

adjoining such property shall have within such period been altered or changed by a ruling of the Board of Adjustment, in which case such change of circumstances shall permit the allowance of an application, but such hearing shall be considered on its merits as in all other cases.

**Sec. 162.3. Duration.**

Any special exceptions or variances authorized or granted by the Board of Adjustment either under the provisions of this Article or under the authority granted to the Board of Adjustment under the statute of the State of Missouri shall authorize the issuance of a building permit, or a certificate of occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action on the part of the Board of Adjustment, unless the Board of Adjustment in its minutes shall, at the same time, grant a longer period. If the building permit or certificate of occupancy shall have not been issued within said ninety (90) day period or such extended period as the Board may specifically grant, then the special exception or variance shall be deemed waived and all rights thereunder terminated. Such termination or waiver shall be without prejudice to a subsequent appeal to the Board in accordance with the rules and regulations herein contained.

**Sec. 162.4. Special Exceptions.**

The prospective occupant or owner of the property shall make application for special exceptions according to the terms of this Article. A deposit of fifty dollars (\$50.00) shall accompany such application, to cover expenses of mailing and posting notices. The Board of Adjustment may, after public notice and hearing and subject to the conditions and safeguards herein contained, authorize special exceptions to this Article as follows:

- A. The Board of Adjustment may grant a special exception to allow a legal non-conforming use to be changed to any other use permitted in the zoning district in which the non-conforming use is allowed, provided the proposed use is not more intense than the existing use in terms of traffic generation and other impacts on surrounding property.
- B. Permit the extension of an existing legal non-conforming use in a building upon a lot currently occupied as a legal non-conforming use.
- C. Permit the use of property in the "R-1" and "R-2" Districts adjacent to the "R-3", "C" or "M" Districts, even if separated therefrom by an alley or by a street, for parking of passenger cars under such safeguards and conditions of the setback requirements of

the more restricted property, and further provided that such parking area shall not extend a greater distance than five hundred (500) feet from the "R-3," "C" or "M" Districts and other conditions as needed to promote public safety.

- D. Permit the use of property owned by a church for the parking of passenger cars in any district under such safeguards and conditions as are necessary to protect adjacent property.

**Sec. 162.5. Variances.**

The Board of Adjustment may grant an applicant a variance in the following instances:

- A. A variance from the applicable bulk regulations for buildings and structures, including maximum height, lot coverage, and required yard areas.
- B. A variance from the applicable minimum requirements for lot size, width, depth, or setback distances.
- C. A variance from the applicable off-street parking requirements.
- D. A variance from the applicable open space, landscaping and buffer area requirements.
- E. A variance to permit the reconstruction of a non-conforming building which has been destroyed or damaged by fire or other casualty, or act of God or the public enemy, to the extent that the cost of restoration does not exceed seventy five (75) percent of completely reconstructing the building.

**Sec. 162.6. Variance Standards.**

The Board of Adjustment shall not vary the regulations of this Article as authorized above unless and until it shall make findings based upon the particular evidence presented to it in each specific case that:

- A. That there are special circumstances or conditions applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this Article shall create an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building, and;
- B. That the alleged hardship has not been created by any person presently having an interest in the property, and;
- C. That the purpose of the variance is not based exclusively on a desire to enhance the value of the property, or increase the return or income therefrom, and;
- D. That the granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located, and;

- E. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose, and will not alter the essential character of the neighborhood; and;
- F. That the literal enforcement and strict application of the provisions of this Article will result in an unnecessary hardship inconsistent with the general provisions and intent of this Article and that in granting such variance the spirit of the Article will be preserved and substantial justice done.

**Sec. 162.7. Use Variances.**

The Board of Adjustment may grant use variances where the strict enforcement of this Article may cause an unnecessary hardship resulting from the unique physical characteristics of a site for a proposed use. The Board of Adjustment shall also make a determination that granting the use variance is consistent with the intent of the *Official Zoning Map* and that granting the variance will result in the achievement of substantial justice.

**Sec.162.8. Appeal from Ruling of Board of Adjustment.**

Appeals from rulings of the Board of Adjustment may be taken in the manner provided by statute.

**Secs. 163 to 164. Reserved.**