

**(AMENDED ENTIRE ARTICLE V, BY ORDINANCE NO. 1992-11, MAY 26, 1992)**

**ARTICLE V**

**INDUSTRIAL DISTRICT REGULATIONS**

**CHAPTER 1. STATEMENT OF PURPOSE**

**5-101 GENERAL PURPOSES OF INDUSTRIAL DISTRICTS**

The industrial districts established by this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following specific purposes:

- (A) To provide sufficient space, in appropriate locations, to meet the needs of the area for all types of distributive, industrial and related activities, with due allowance for the need for choice of suitable sites.
- (B) To protect distributive, industrial and related activities, as well as residential and related activities by providing for the separation of these uses, and, as far as possible, provide that appropriate space needs for distributive and industrial activities are available by prohibiting the use of such space for residential purposes.
- (C) To encourage industrial development which is free from danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards, and from offensive noise, vibration, odorous matter, heat, humidity, glare, and other objectionable influences, by permitting such development areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products and processes involved.
- (D) To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of industrial and related activities, by restricting those industrial activities which involve danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust, or other particulate matter, and other hazards, or create offensive noise, vibration, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products or processes involved.
- (E) To protect industrial activities and related developments against congestion, as far as is possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another, and by requiring space off public ways for parking and loading facilities associated with such activities.
- (F) To promote the most desirable use of land and direction of building development, to promote stability of industrial and related development, to strengthen the economic base of the Hendersonville area, to protect the character of these districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect Hendersonville's tax revenues.

- (G) To protect adjacent residential and commercial districts from any negative impacts attributable to sites devoted to industrial activities.

## **5-102 PURPOSES OF INDUSTRIAL DISTRICTS**

### **5-102.1 I-R, Industrial-Restrictive Districts**

This class of district is intended to provide space for a wide range of industrial and related uses which conform to a high level of performance criteria and have the least objectionable characteristics. These districts may provide a buffer between other districts and other industrial activities which have more objectionable influences. Except as specified in Subsection 5-204.1, (C), new residential activities are excluded, and community facilities and commercial establishments which provide needed services for industry and are complementary thereto are permitted.

### **5-102.2 I-G, Industrial-General Districts**

This class of district is intended to provide space for the types of industrial activities which by reason of volume of raw materials or freight, scale of operation, type of structures required, or other similar characteristics require locations relatively well segregated from nonindustrial uses. Except as specified in Subsection 5-204.1, (C), new residential activities are excluded, and commercial establishments and community facilities which provide needed services for industry and are complementary thereto are permitted.

### **5-102.3 I-S, Industrial-Special Districts**

This class of district is intended to provide suitable areas for intense or potentially noxious industrial operations, including open land operations. It is specifically intended that all newly created districts be so located as to prevent possible negative impact upon adjoining uses. To this end, these districts are to be protected from encroachment by other activities.

## **CHAPTER 2. USES AND STRUCTURES**

### **5-201 GENERAL PROVISIONS**

Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in ARTICLE I, CHAPTER 3, of this ordinance. The procedure of interpreting the classes and type of activities is provided in ARTICLE I, CHAPTER 3, Sections 1-301 through 1-304. TABLE 5-201A, presents a tabulation of uses and structures which are classified as either "principal permitted" or "conditional" uses within the various industrial districts. Where supplemental provisions have been established for a principal permitted use, a cross reference to the section containing these supplemental provisions appears in TABLE 5-201A.

### **5-202 PRINCIPAL PERMITTED USES**

Principal permitted uses are permitted within the district indicated:

- (A) Subject to approval of a site development plan as required by Subsection 11-202.102; and
- (B) Subject to compliance with any supplemental provisions established for such use.
- (C) Adult oriented businesses, as referenced in Table 5-201A, are permitted subject to (A) and (B), above, in all IR and IG Districts, with the exception of those lots which have a contiguous side or rear lot line to any lot with a residential zoning designation. In addition, no permit will be issued for any adult oriented business within one hundred-fifty (150) feet of any lot currently occupied by a liquor store, religious, child care or educational facility, as measured in a straight line from the nearest corner of the two (2) structures. **(ADDED BY ORDINANCE 1997-21, JUNE 10, 1997. MOVED BY ORDINANCE 2007-31, SEPTEMBER 25, 2007)**

### **5-203 CONDITIONAL USES**

A conditional use is an activity, use, or structure which is subject to a finding by the board of appeals that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in TABLE 5-201A, are allowed within the districts indicated.

### **5-204 ACCESSORY USES**

In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when located on the same zone lot as such principal activity and meet the further conditions set forth below. Such accessory activities shall be controlled in the same manner as the principal activities within such type except as otherwise expressly provided in this ordinance.

#### **5-204.1 Partial List of Accessory Activities**

Such accessory activities include, but are not limited to, activities indicated below:

- (a) Off-street parking and loading serving a principal activity, whether located on the same zone lot or on a different zone lot, but only if the facilities involved are reserved for the residents, employee patrons or other persons participating in the principal activity.
- (b) Child care for preteenage children when operated by a health care, commercial or industrial activity where the care is provided solely for the children of their employees. The facility shall be located on the same zone lot as the principal activity and meet all applicable state and local regulations for a day care center for children.
- (c) Residential occupancy in connection, with a principal nonresidential activity on the same zone lot, but only if:
  - (1) No more than one (1) dwelling or rooming unit is permitted,
  - (2) The unit is occupied by person(s) employed in the principal nonresidential activity located upon the zone lot, and
  - (3) The nonresidential activity does not constitute a hazardous occupancy as defined by this ordinance.
- (d) Operation of a cafeteria for employees, residents, patrons or others participating in the principal activity by an organization engaged in a community facility activity on the same zone lot. Where the principal activity is permitted by conditional use only, an accessory cafeteria must be approved as a part of the action granting said permit.

#### **5-205 TEMPORARY USES**

The temporary uses and structures specified in Subsection 11-203.402, as permissible within industrial districts may be permitted for the limited time periods indicated for each such use or activity.

#### **5-206 USES NOT PERMITTED**

Any uses or structures not allowable as permitted uses, conditional uses, temporary uses, or accessory uses are prohibited within the various industrial districts.

(AMENDED BY ORDINANCE 2009-11, JULY 14, 2009)

**TABLE 5-201A  
PERMITTED AND CONDITIONAL USES AND  
STRUCTURES ALLOWABLE WITHIN INDUSTRIAL DISTRICTS**

		I-R	I-G	I-S
<b>I. <u>MANUFACTURING ACTIVITIES</u></b>				
<b>A.</b>	<b>Manufacturing - Limited</b>	P	P	P
<b>B.</b>	<b>Manufacturing - Intermediate</b>	X	P	P
<b>C.</b>	<b>Manufacturing - Extensive</b>	X	X	ARTICLE 5 CHAPTER 4
<b>D.</b>	<b>Manufacturing – Extensive Cement and/or Concrete Plant</b>	X	C(11-508)	ARTICLE 5 CHAPTER 4
<b>II. <u>COMMERCIAL ACTIVITIES</u></b>				
<b>A.</b>	<b>Animal Care and Veterinarian Services</b>	P	P	X
<b>B.</b>	<b>Automotive Parking</b>	P	P	ARTICLE 5 CHAPTER 4
<b>C.</b>	<b>Automotive Service and Repair</b>	P	P	X
<b>D.</b>	<b>Building Materials and Farm Equipment Sales</b>	P	P	X
<b>E.</b>	<b>Contract Construction Services</b>	P	P	X
<b>F.</b>	<b>Entertainment and Amusement Services</b>			
	<b>Cheerleading Schools</b>	X	C	X
	<b>Dance Schools</b>	X	C	X
	<b>Gymnastics Schools</b>	X	C	X
<b>F.</b>	<b>Equipment Repair Services</b>	P	P	X
<b>G.</b>	<b>Scrap Operations</b>	X	X	ARTICLE 5 CHAPTER 4
<b>H.</b>	<b>Warehousing, Goods Transport and Storage</b>	P	P	ARTICLE 5 CHAPTER 4
<b>I.</b>	<b>Vehicular, Marine Craft, Aircraft and Related Equipment Sales Equipment Sales, Rental and Delivery</b>	P	P	X
<b>J.</b>	<b>Wholesale Sales</b>	P	P	X
<b>K.</b>	<b>Adult Oriented Business</b>	C-(5-202)	C-(5-202)	X
<b>III. <u>COMMUNITY FACILITY ACTIVITIES</u></b>				
<b>A.</b>	<b>Administrative Services</b>	P	P	X
<b>B.</b>	<b>Community Assembly</b>	C-(11-506.1)	C-(11-506.1)	X
<b>C.</b>	<b>Essential Public Transport Com- munication and Utility Services</b>	P	P	P
<b>D.</b>	<b>Religious Facilities</b>	C-(11-506.7)	C-(11-506.7)	X
<b>E.</b>	<b>Minor Impact Facilities</b>	C-(11-506.4)	C-(11-506.4)	X
<b>F.</b>	<b>Intermediate Impact Facilities</b>	C-(11-506.4)	C-(11-506.4)	X
<b>G.</b>	<b>Extensive Impact Facilities</b>	C-(11-506.4)	C-(11-506.4)	ARTICLE 5 CHAPTER 4
<b>H.</b>	<b>Child Care Centers</b>	P (11-506.602)	P(11-506.602)	

**KEY TO INTERPRETING USE CLASSIFICATIONS**

**P = Permitted use within the district indicated (no special provisions apply).**

**C = Conditional use subject to provisions of section.**

**() = Use permitted subject to supplemental provisions.**

**X = Use not permitted within the district.**

## **CHAPTER 3. HEIGHT, BULK, LOT SIZE, AND OPEN SPACE REQUIREMENTS**

### **5-301 APPLICABILITY AND GENERAL PURPOSES**

The provisions of this chapter apply to any building or other structure on any zone lot or portion of a zone lot located in any industrial district, including all new developments or enlargements.

### **5-302 MAXIMUM PERMITTED LOT COVERAGE**

#### **5-302.1 Building Coverage Ratio**

Within the various industrial districts, the maximum lot coverage by all buildings (principal and accessory) shall not exceed the percentage of the total area of the zone lot indicated in TABLE 5-301A.

#### **5-302.2 Impermeable Surface Ratio**

In all industrial districts, the impermeable surface ratio, computed by dividing the impermeable surface area on the site by the total site area, shall not exceed 0.8.

### **5-303 MINIMUM LOT AREA REQUIREMENTS**

Within the various industrial districts the minimum area of zone lots shall not be less than indicated in TABLE 5-301A.

### **5-304 HEIGHT REGULATIONS**

#### **5-304.1 Basic Requirements**

Within the various industrial districts, the maximum height of all buildings shall not, except as provided in Subsection 5-304.2, exceed that set forth in TABLE 5-301A.

#### **5-304.2 Permitted Obstructions**

In all industrial districts, the following shall not be considered obstructions and may, therefore, exceed the maximum height provision, otherwise, applicable within the districts.

- (a) Chimneys or flues.
- (b) Elevator or stair buckheads, roof water tanks, or cooling towers.
- (c) Flagpoles and aerials.
- (d) Ornamental church towers, spires, and belfries.
- (e) Parapet walls not more than four (4) feet high.
- (f) Wire, chain link, or other transparent fences.

## **5-305 YARD REGULATIONS**

### **5-305.1 Permitted Obstructions in Required Yards**

In all industrial districts, the following shall not be considered obstructions when located within a required yard, except that items shall comply with Subsection 3-306.4.

- (a) Arbors and trellises.
- (b) Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.
- (c) Chimneys projecting not more than three (3) feet into, and not exceeding two (2) percent of the area, of the required yard.
- (d) Driveways subject to other specific provisions of this ordinance related directly thereto.
- (e) Eaves, gutters, or downspouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.
- (f) Fire escapes or staircases, the riser area of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not exceed thirty (30) percent of the area of such yard.
- (g) Flagpoles, having only one structural ground member.
- (h) Fountains.
- (i) Mailboxes.
- (j) Open terraces, including natural plant landscaping.
- (k) Retaining walls.
- (l) Sculpture or other similar objects of art.
- (m) Street furniture such as, but not limited to, benches, drinking fountains, trash receptacles, ash trays, light standards, or directional signs.
- (n) Vehicular parking areas, unless otherwise specifically prohibited by applicable sections of this ordinance.
- (o) Vents necessary for use of fallout shelter constructed below grade of such yards, but excluding all other parts of such shelters.
- (p) Walls or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length of, and on any side of, such walls or fences, and not roofed or structurally part of a building.

### **5-305.2 Measurement of Yard Width or Depth**

In all industrial districts, the width or depth of a required yard shall be measured perpendicular to straight lot lines, or for curved lot lines, in such a way that such yard is bounded by the arc of a curve which is concentric with such curved lot line and elsewhere, therefrom, the required yard width or depth specified in this ordinance.

### **5-305.3 Dimension of Yards**

In all industrial districts, yards of such dimensions as set forth in TABLE 5-301A, shall be provided.

### **5-305.4 Uses of Required Yard Areas**

The following uses may be made of yard areas, provided such uses are otherwise permissible in this district.

(a) Landscaping

All required yard areas not occupied by driveways or sidewalks shall be devoted to landscaping, as required by ARTICLE IX.

(b) Driveways

Driveways may be located within any required yard; provided, however, that no more than fifty (50) percent of the area of any required yard may be used as a driveway.

(c) Sidewalks

(d) Parking

Within all industrial districts any yard may be used for off-street parking or loading, except as provided in Subsection 5.305.7 provided no more than fifty (50) percent of the area of any required yard may be paved or used for parking. Amended by Ordinance 2000-4. However, such areas shall not be used for storage or processing of any kind. No parking shall be permitted within ten (10) feet of the front property line.

### **5-305.5 Restrictions on Outside Storage Within Areas Other Than Required Yards**

#### **5-305.501 Accessory Storage in Required Side and Rear Yards Within I-R Districts**

In all Industrial-Restrictive Districts, accessory storage may be located within any required side or rear yard setback provided that no more than fifty (50) percent of the area of any required yard may be used for storage purposes. All storage areas must meet provisions of the Design Review Manual, Section 2.7 (3) Nuisance Screening. No storage on any Industrial lot shall be allowed in over the road trailers or freight containers or vehicles of any kind other than to deliver or pick up materials or merchandise.

5-305.502 Accessory Storage in Required Yards Within I-G and I-S Districts

Within I-G and I-S Districts, accessory storage may be permitted only within areas designated for such upon an approved site development plan. In the event the storage yard is visible from a public way, the storage yard shall meet the provisions of the Design Review Manual, Section 2.7 (3) Nuisance Screening and utilize no more than fifty (50) percent of the required side or yard.

**5-305.6 Special Provisions Applying Along Railroad Right-of-Way**

In all industrial districts, other provisions of this ordinance notwithstanding, along such portion of a rear or side lot line which coincides with a boundary of a railroad right-of-way, no rear or side yard shall be required.

**TABLE 5-301A**  
**HEIGHT, BULK, LOT SIZE, AND OPEN SPACE**  
**REQUIREMENTS APPLICABLE TO INDUSTRIAL ACTIVITIES**  
**LOCATED WITHIN INDUSTRIAL DISTRICTS\*1**

	<u>I-R</u>	<u>I-G</u>	<u>I-S</u>
<b>I. <u>MAXIMUM LOT COVERAGE BY ALL BUILDINGS</u></b>			
<b>(As Percent (%) of Total Lot Area</b>	<b>50</b>	<b>70</b>	<b>70</b>
<b>II. <u>MINIMUM ZONE LOT REQUIREMENTS</u></b>			
<b>A. Area (in Square Feet)</b>	<b>(2) 40,000</b>		<b>(2)</b>
<b>B. Width (in Feet, Measured at Building Line)</b>	<b>50</b>	<b>100</b>	<b>100</b>
<b>III. <u>MAXIMUM HEIGHT</u></b>			
<b>(In Feet)</b>	<b>45</b>	<b>45</b>	<b>45</b>
<b>IV. <u>MINIMUM YARD REQUIREMENTS (IN FEET)</u></b>			
<b>A. Front</b>	<b>20</b>	<b>20</b>	<b>(5)</b>
<b>B. Side</b>	<b>(3)</b>	<b>(3)</b>	<b>(5)</b>
<b>C. Rear</b>	<b>20(4)</b>	<b>20(4)</b>	<b>(5)</b>

- NOTE:**
- (1) For requirements applicable to community facility activities see the specific sections cited on TABLE 5-201A.
  - (2) The minimum lot shall be as required to meet other provisions of this chapter.
  - (3) Along the periphery of an industrial site which adjoins commercial or industrial property side yards ten (10) feet in width, are required. Where an industrial site abuts property classified as residential, the provisions of Subsection 5-305.7, shall apply.
  - (4) Except along residential district boundaries (see Subsection 5-305.7).
  - (5) See Subsection 5-305.9, for special yard provisions applicable within I-S Districts.

**5-305.7 Special Provisions Applying to Required Yards and Building Setbacks Along District Boundaries Coincident with Side or Rear Lot Lines of Zone Lots Located in Any Residential District**

**5-305.701 Required Yards Along District Boundaries Coincident with Side or Rear Lot Lines**

Within I-R and I-G, Industrial Districts, along such portion of the boundary of the industrial district which coincides with a side or rear lot line of a zone lot in any residential district, an open area unobstructed from the ground to the sky shall be provided within the industrial district. In an I-G District, this area shall be fifty (50) feet in width. In an I-G District, no portion of this open area shall be used for off-street parking, off-street loading or for storage or processing of any kind. No portion of this open area shall be paved, graveled or used for parking or as an access way of any type.

Within an I-R District, the rear building setback shall be no closer to the adjoining residential property line than fifty (50) feet. Screening shall be as outlined in Subsection 5-305.703. If a developer of a lot within an I-R District, that abuts a residential district, so chooses, he may install a driveway in the twenty-five (25) feet adjacent to the building. If he chooses to build the driveway, he must build a privacy fence, either at the property line or at the driveway; the location is to be based upon the topography to be the most advantageous for screening the residential area. The driveway is to be for access to the rear of the building. The driveway is not to be used for parking, storage or processing of any kind. In an I-R District, within the twenty-five (25) feet; being fifty (50) feet, if no driveway is constructed; no portion of this open area shall be used for off-street parking, garbage container location, off-street loading or for storage or processing of any kind. No portion of this open area shall be paved, graveled or used for parking, nor shall an alley be established between properties by the connection of these driveways or as an access way of any type.

**5-305.702 Special Front Setback**

Regardless of the front yard provisions established for any industrial district, no building located on any zone lot adjacent to any residential district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet, of the lot whereon the industrial activity is located; provided that no building shall be required to setback more than twice the minimum front yard applicable within the industrial district.

**5-305.703 Screening Along Residential District Boundaries**

To assist in the prevention of the transmission of light and noise from within any industrial district into any abutting residential district, screening shall be required where such district abuts or is contiguous to any residential district, without an intervening street, alley, or other public way. Such screening shall be provided within the industrial district, but not within a public street or alley, along the entire contiguity of said districts.

Transitional screening which meets the standards of ARTICLE IX, of this ordinance, shall be located in this open area.

### **5-305.8 Required Yards Within I-S Districts**

Due to the potentially noxious activities which may be permitted within I-S Districts, special yard provisions are required.

#### **5-305.801 Provisions Applicable to Zone Lots Occupied by Any Activity Classified as Extensive Manufacturing**

In its review of any application for approval of an extensive manufacturing activity proposed for location within an I-S District, the Board of Mayor and Aldermen shall establish yards and building separations sufficient to protect the health safety and economic benefit of persons owning or occupying nearby property. As an absolute minimum such yards shall be as indicated below. Screening shall be provided as established in Subsection 5-305.703.

##### **(1) Use Adjoins Residential Property**

Along any rear or side lot line which adjoins residential property, whether such property is presently occupied for residential purposes or only zoned for such use, an open area unobstructed from the ground to the sky at least two hundred (200) feet wide, shall be provided within the industrial district. Such open area shall not be paved nor used for off-street parking, loading, or storage or processing of any kind.

##### **(2) Use Adjoins Commercial or Industrial Property**

Along any lot line which adjoins property either classified or presently utilized for commercial or industrial purposes, an open area at least one hundred-fifty (150) feet wide, shall be provided. Such area may be utilized for off-street parking or loading, but shall not be used for storage or processing of any kind.

#### **5-305.802 Zone Lots Occupied by Other Than Extensive Manufacturing Activities**

Yards for zone lots located within I-S Districts, and occupied by other than extensive manufacturing activities may, unless otherwise specified as provided in Subsection 5-305.801, be as provided for I-G Districts.

### **5-305.9 Special Provisions for Party Walls**

Within I-R and I-G, Industrial Districts, side or rear yard requirements may be waived along the side or rear adjacent to another commercial or industrial zoned lot.

- (a) At all points of attachment, adjoining buildings shall be separated from each owner by a four (4) hour wall constructed in accordance with the Standard Building Code.

- (b) A common or party wall may bisect the dividing line of two (2) adjacent lots so that one-half (1/2) of the wall is located on each of the properties provided that the owners of each property sign a covenant running with the land and granting an easement on the property to the owner of the adjoining property the right to maintain, reconstruct and protect the wall.
- (c) In the event of the construction of a building on the lot line, the wall along the lot line if not constructed as a part or common wall between two (2) buildings, shall be constructed as a four (4) hour wall and meet all requirements of the Standard Building Code, without regards to any construction that may exist or be proposed on the adjoining property.
- (d) All walls constructed within ten (10) feet, of a property line, shall have a four (4) hour fire rating and shall comply with all requirements of the Standard Building Code.

**5-305.10 Special Provisions for Shallow Corner Lots**

Within the I-R and I-G, Industrial Districts, if a corner lot consists entirely of a tract of land:

- (a) Which was owned separately and individually from all other tracts of land, both on the effective date of this ordinance and on the date of application for a zoning permit; and
- (b) Which is less than eighty (80) feet deep, no rear yard is required. However, if an open area is provided along a rear lot line of any such tract of land, such open area shall extend the full length of such rear lot line, shall not be less than ten (10) feet deep, and shall be open and unobstructed from finished grade level to the sky, except as otherwise provided in Subsection 5-305.1.

**5-305.11 Underground Utilities**

All utility service to individual structures within all Industrial zone districts shall be underground in accordance with the individual utility entities current standards.

## **CHAPTER 4. SUPPLEMENTAL PROVISIONS**

### **5-401 OPERATION AND INTENT**

The I-S, Industrial-Special District, is intended to provide a mechanism for managing a wide variety of high impact, potentially noxious and/or dangerous, but necessary uses or activities which seek to locate within the planning jurisdiction. Each of the potential uses which may be located within the district has associated with it some special impact or uniqueness related to its materials, processes or products which can not be evaluated as to effect on the surrounding area or environment in advance of the use being proposed for a particular location. At the time an application is filed for approval of an I-S District, a review of the location, design configuration and its impact will be conducted. This evaluation shall consider the proposed use, the preliminary development plan and all operational and environmental data required to be submitted. The express goal of the evaluation characteristics and environmental impacts associated with the proposed use. This review will formulate the basis for a recommendation as to whether the proposed use should be permitted through classification to an I-S, Industrial-Special District, by weighing the public need and benefit to be derived from the use as opposed to adverse impacts which it may cause for both existing and proposed private and public developments located within the area and upon the health, safety and welfare of all the citizens living and working within the planning jurisdiction.

### **5-402 DEVELOPMENT PLANS AND REVIEW PROCESS**

#### **5-401.1 Procedure for Submission and Review**

The process for review and approval of any I-S, Industrial-Special District, consists of three (3) progressive elements:

- (1) Review and recommendation of a preliminary development plan by the planning commission as specified in Subsection 5-402.2.
- (2) Consideration by the City Council of the requested I-S District, as specified in Subsection 5-402.3, and
- (3) Approval of a final development plan as specified in Subsection 5-402.4.

#### **5-402.2 Preliminary Development Plan**

All applications for approval of an I-S, Industrial-Special District, shall be made by the landowner or authorized agent in accordance with the provisions of this section.

##### **5-402.201 Plan Content**

All preliminary development plans submitted under this section shall be accompanied by the following:

##### **(a) Site Data and General Information**

1. Letter from the landowner detailing the proposed zone change.

2. Location map of the proposed site.
3. Preliminary site plan prepared by a licensed engineer indicating existing and proposed contours at a vertical interval no greater than five (5) feet, along with the location and proposed use of structures and other site alterations.
4. A land use map indicating the ownership and present usage of all parcels located within one thousand (1,000) feet, from the periphery of the proposed site.
5. Highway assessment indicating the existing width and type of pavement and existing traffic conditions of all roads giving access to the property.

(b) Operational Data

1. Sufficient information to divulge the nature, intensity and ultimate extent of the proposed operation.
2. Nature of materials to be utilized and processes involved in the proposed operation, to specifically include a detailed listing of types and expected quantities of all materials classified as hazardous by the Federal Department of Environmental Protection or by the Tennessee Department of Health and Environment.
3. Average number of vehicles entering and leaving the site on a daily basis and the anticipated route(s) of travel.
4. Detailing of types and current status of all Federal and State permits required for operation of the proposed facility.
5. Detailing of all safety and protective measures to be utilized in connection with the operation as well as an indication of the system proposed for dealing with complaints.
6. A general indication of the anticipated duration of the proposed use and, details of plans and methodologies proposed for removal of the activity and/or reclamation of the site.

(c) Environmental Data

1. A listing of the type and quantity of emissions expected to be released from the site.
2. Effects of the proposed use on ground water and air quality.
3. Effects on surface water run-off and potential for any contamination of the same.
4. A detailed listing of soils and geological conditions found upon the site.

### **5-402.202 Planning Commission Recommendation**

The information required by Subsection 5-402.201, shall be presented in sufficient copies for review and recommendation by the Planning Commission. The Commission shall consider the preliminary development plan and forward a detailed recommendation concerning its disposition to the Board of Mayor and Aldermen. This recommendation may contain suggestions for specific conditions and/or limitations to be applied to the use should the Board approve the zoning request.

### **5-402.3 Action by Board of Aldermen**

After review and recommendation by the Planning Commission, the applicant may proceed to the Board of Aldermen with the proposal. At the meeting of the Board where the proposal is presented, the preliminary site development plan along with the action recommended by the Planning Commission shall be presented for review. The Board of Aldermen may approve or disapprove the proposal, or in an instance where the Planning Commission has recommended approval with conditions or recommendations for alterations, the Board may establish specific conditions within the purview of this ordinance for approval.

Upon action by the Board of Aldermen approving the preliminary site development plan and the proposed change in zoning classification, the applicant may proceed to prepare and present to the Planning Commission a final site development plan as set forth in Subsection 5-402.4. In no event shall a building permit be issued for any portion of a development subject to this procedure until a final site development plan has been approved.

In the event that the action by the Board of Mayor and Aldermen is a conditional approval, such conditions shall be agreed to in writing by the applicant before the zoning approval shall become final. Moreover, such acceptance by the applicant shall cause the activity to be continuously subject to compliance with the conditions set out in the grant of approval (and accepted by the applicant) and any violation of these conditions shall be deemed a violation of this ordinance to be punished as set out in ARTICLE XI, CHAPTER 7.

### **5-402.4 Final Site Development Plan**

Following the action by the Board of Mayor and Aldermen creating the I-S District, the applicant may proceed to prepare and present for review by the Planning Commission a final site development plan.

#### **5-402.401 Information Required**

The information indicated herein shall be provided with all final site development plans submitted in accordance with this section.

##### **(a) General Site Information**

The information required by Subsection 11-202.102, of this ordinance, shall be provided.

(b) Approved State and Federal Permits

Copies of all permits required by State and Federal law for operation of the facility shall be provided.

(c) Site Restoration or Reclamation Plan

Depending upon the nature of the proposed use, a site restoration or reclamation plan may be required as a condition of zoning approval. Where such is required, said plan shall accompany the final site development plan. Adequate provision, as determined by the city attorney, shall be made to assure implementation of said plan regardless of the future financial capabilities of the applicant.

**5-402.402 Determination of Substantial Compliance**

Any final site development plan submitted in conformance with this section shall be evaluated as to the "substantial compliance" of the final site development plan to the approved preliminary site development plan and for compliance with all other provisions of this ordinance which were not contained in the preliminary development plan.

The final site development plan shall be deemed in substantial compliance with the preliminary site development plan provided modifications by the applicant do not involve changes which exceed those permitted by Subsection 11-202.5, entitled, "Construction to be in Accordance with Approved Plans".

The Planning Commission shall review the plan as to its "substantial compliance" with the preliminary site development plan and either:

- (a) Approve the plan as presented.
- (b) Disapprove the plan. (See Subsection 5-402.404.)
- (c) Approve the plan with modifications which in its judgement are required in order for the plan to meet the test of substantial compliance or other provision of this article.

Where a final site development plan is approved with modifications the provisions of Subsection 5-402.403, shall apply.

**5-402.403 Approval with Modifications, Applicants Response**

When the Planning Commissions action on any final site development plan is "Approval with Modifications", the commission shall transmit in writing the conditions or modifications which must be complied with in order that the proposed development receive approval. Within sixty (60) days of the transmittal of the required modifications, the applicant may make a written response concurring with the required modifications, in which case the development is deemed to have final approval, at the date of receipt by the Planning Commission of said written concurrence. When the applicant makes a negative reply or no reply is made within sixty (60) days of the date of conditional approval, the development shall be deemed

disapproved, unless such time limit is extended by a specific action of the Planning Commission upon a written request of the applicant. In the event of disapproval, the applicant may request review of such ruling as set forth in Subsection 5-402.404.

#### **5-402.404 Disapproval**

If the Planning Commission finds that the final plan does not meet the test for substantial compliance set forth in Subsection 5-402.402, or does not comply with other standards of review, it shall disapprove the plan. In the event of disapproval, a written report shall be prepared by the Planning Commission and sent to the Board of Aldermen and the applicant. This report shall detail the grounds on which the plan was denied to specifically include ways in which the final plan violated the substantial compliance provisions or other standards of review.

In the event that any final site development plan shall be disapproved, such action shall, upon request by the applicant be reviewed by the Board of Aldermen. The Board shall consider the report submitted by the Planning Commission and such other information as it may require in order to determine whether such development in its view meets the test of substantial compliance and complies with other standards of review, herein, established. Should the Board of Aldermen uphold the Planning Commission in its action, it shall notify the applicant that final approval of the development plan is denied. Should the Board of Aldermen override the Planning Commission's recommendation to disapprove the plan, it shall notify both the applicant and the Planning Commission of its decision and the action of the Board of Aldermen approving the plan shall become final.

#### **5-403 GENERAL LOCATION CRITERIA**

The provisions of this section shall apply in determining the suitability of any site proposed for classification as an I-S, Industrial-Special District.

- (A) The proposed site will be located in areas apart from concentrations of residential developments and community facilities where concentrations of people will be present.
- (B) The proposed use will not pollute or deteriorate air quality, surface or subterranean water, or any other natural features.
- (C) The proposed site will not be located in an area that could contaminate the source of an existing public water supply.
- (D) The proposed site will be free of sinkholes, caves, caverns, or other karst features that would present significant potential for surface collapse or significant degradation to local ground water resources.
- (E) The proposed site will be adequately served by public utilities and services to ensure a safe operation.

- (F) The proposed use will not result in the transportation of dangerous products or wastes through areas of population concentrations which would endanger community safety.
- (G) The proposed site will have direct access from a road classified as an arterial or collector on the Major Thoroughfare Plan.
- (H) The proposed lot shall be sufficient so that no danger occurs to the adjoining uses.
- (I) The proposed site will not be located within a one hundred (100) year floodplain or wetland.

**5-404 GENERAL SITE DESIGN CRITERIA**

- (A) No excavation or filling shall be made within any portion of the yard areas required by Subsection 5-305.8.
- (B) Provisions shall be made for the disposal of surface water falling on or crossing the site at all times, during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain or abrogate the riparian rights of any other party to a stream or drain.
- (C) The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality or purity of ground water or wells.
- (D) A layer of clean earth at least two (2) feet thick, shall be deposited and thoroughly compacted over all fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application.
- (E) The finished surface of the site shall bear the proper relationship to that of adjoining properties.
- (F) The installation of roads, parking areas, buildings, structures and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.
- (G) The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site, except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or some other approved method.
- (H) The proposed site must have a public supply of water available, capable of providing the required fire flow to a fire hydrant on site.

**5-405 EXPANSION OF FACILITIES OR CHANGES IN OPERATIONAL CHARACTERISTICS**

Any approval of an I-S, Industrial-Special District, is specifically limited to the uses(s), facilities and operations presented and approved in the plans provided in accordance with Section 5-402. Any expansion of the facilities or change in the materials, services

or products shall only be accomplished after approval of a modified site development plan. Such modification may be approved by resolution of the Board of Aldermen.

**5-406 ANNUAL INSPECTION AND RECERTIFICATION OF COMPLIANCE WITH CONDITIONS OF APPROVAL**

At least annually the Zoning Administrator shall cause an inspection to be made of all facilities and operations located within any I-S District. Such inspection shall be conducted for purposes of determining compliance with the conditions of zoning approval. Any violation detected shall be prosecuted as provided in ARTICLE XI, CHAPTER 7.