

ORDINANCE NO. 2019-6

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE TITLE XV LAND USAGE, CHAPTER 152 ZONING, SECTION 152.080 — B-1 HIGHWAY BUSINESS DISTRICT, SUBSECTION (D) PERMITTED CONDITIONAL USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held a public hearing on May 6, 2019, regarding a request to consider amending the zoning text, specifically the B-1 Central Business District, Section 152.080 (D) Exceptions and (M) Permitted Conditional Uses, and have recommended approval thereof subject to the “Finding of Fact” being Staff’s recommendation.

Section 2. That Title XV Land Usage, Chapter 152 Zoning, Section 152.080 – B-1 Highway Business District, Subsection (D) Exceptions and Subsection (M) Permitted Conditional Uses of the Municipal Code of Wayne, are hereby amended as follows:

§ 152.080 B-1 HIGHWAY BUSINESS DISTRICT.

(A) *Intent.* The B-1 District is intended primarily for application to areas along major highway entrances to the city in accord with policies of the Comprehensive Plan where controlled access to the highway is afforded and offering a desired convenience to the motoring public.

(B) *Permitted principal uses and structures.* The following shall be permitted as uses by right in a B-1 District:

(1) Establishments which provide services or supply commodities primarily for the convenience of patrons traveling on state highways and major county road entrances to the city, including:

- (a) Building material sales, and non-livestock auction rooms and monument sales;
- (b) Bus depots and transit stations;
- (c) Car/truck wash establishments, subject to division (E) below;
- (d) Commercial recreational facilities such as golf putting courses, golf driving ranges, drive-in movie theaters subject to division (E) below, riding stables, bowling alleys and other similar recreational uses;
- (e) Construction sales and services;
- (f) Convenience stores, as defined in § 152.010 of this chapter;
- (g) Banks and other lending agencies, detached banking facilities and automatic teller machines subject to division (E) below;
- (h) Equipment and supply rental establishments;

- (i) Feed and seed establishments;
 - (j) Finance, insurance and real estate services;
 - (k) Food stores, delicatessens and supermarkets;
 - (l) Freight terminals;
 - (m) Garden centers, plant nurseries and greenhouses;
 - (n) Hotels and motels;
 - (o) Ice cream and confectionery stores;
 - (p) Mini-warehouses;
 - (q) Model home displays and mobile and modular home sales;
 - (r) Museums and art galleries;
 - (s) Orchards, including the retail sales of produce with the retail sale of food items, nursery stock, Christmas trees and gifts as accessory uses subordinate to the sale of produce;
 - (t) Public and private charitable institutions;
 - (u) Repair garages, automobile service stations and major body repair, but not including the dismantling or wrecking of vehicles or the storage of damaged or inoperable vehicles;
 - (v) Restaurants, eating establishments, cafés and food services, subject to division (E) below;
 - (w) Sales, rental and display of automobiles, trucks, large construction and earth-moving equipment and implements, campers, recreational vehicles, cycles, mobile homes, modular homes, boats and farm machinery; provided that, all servicing and maintenance shall be conducted entirely within completely enclosed buildings;
 - (x) Service stations;
 - (y) Stores or shops for the sale of goods at retail;
 - (z) Taverns and nightclubs;
 - (aa) Theaters;
 - (bb) Transportation warehousing; and
 - (cc) Wholesale sales and services.
- (2) Signs subject to § 152.142 of this chapter;
- (3) Roadside rest areas; and

(4) Video rental (general public).

(C) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted in a B-1 District:

(1) Uses and structures incidental to the permitted uses;

(2) Storage warehouses in conjunction with permitted principal uses;

(3) Temporary buildings used in conjunction with construction; provided, such buildings are removed promptly upon completion of the construction work;

(4) Offices and other necessary uses which are incidental to, maintained on the same lot with and commonly associated with the operation of a principal use;

(5) Gift and curio shops when conducted in the same building with a restaurant, convenience store, motel or hotel; and

(6) Off-street parking and loading facilities.

(D) *Exceptions.* In accordance with §§ 152.195 through 152.202 of this chapter, the following exceptions are allowed in a B-1 District:

(1) Recreational vehicle parks and campgrounds;

(2) Private clubs and lodges;

~~(3) Veterinarian, veterinarian services or animal hospitals; provided, any such building, kennel or exercise runway is located at least 100 feet from any R-district boundary;~~

(3) Truck stops, including those with complete truck services; provided that, all maintenance and services not commonly provided at fuel islands shall be conducted within entirely enclosed buildings;

(4) Public and quasi-public uses of an educational, recreational or religious type, including preschools, public and parochial elementary schools and junior high schools, high schools, private non-profit schools, churches, parsonages and other religious institutions, parks and playgrounds;

(5) Public uses of an administrative, public service or cultural type, including city, county, state or federal administrative centers and courts, libraries, police and fire stations, and other public buildings, structures and facilities;

(6) Package liquor stores;

(7) Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district;

(8) Adult media outlet, including, but not limited to, the following:

(a) Adult books, periodicals and magazines displaying or depicting sexually explicit information or photos;

(b) Sale or rental of any adult video or any pre-recorded media that exhibits or displays any sexual oriented activity or anatomical area; and

(c) Shall not include a sex-shop, or any business featuring or including live entertainment.

(9) Kennels; and

(10) Vehicle towing service.

(E) *Special conditions and conditions for granting exceptions.* Notwithstanding the requirements of §§ 152.195 through 152.202 of this chapter, the following regulations shall apply as minimum requirements for all uses in the B-1 District.

(1) Where a site adjoins or is located across an alley from any residential district, a solid wall or fence, vine-covered open fence or compact evergreen hedge six feet in height shall be located on the property line common to such districts, except in a required front yard.

(2) Open storage of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence six feet in height; provided that, no materials or equipment shall be stored to a height greater than that of the wall or fence.

(3) No use shall be permitted and no process, equipment or materials shall be used which are found by the Board of Adjustment to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibrations, illumination, glare or unsightliness or to involve any hazard or fire or explosion.

(4) Any proposed use which is otherwise permitted in the B-1 zone which requires, uses or proposes to construct or use a drive-up, drive-through or drive-in intended to provide customers in-vehicle access to a product or service shall be considered a use by exception. Together with the provisions of §§ 152.195 through 152.202 of this chapter, the Council shall consider whether sufficient vehicle stack or queue space is provided on site. In addition to the space at which the product or service is dispensed, at least three stack or queue spaces will be provided, as a minimum. No stack or queue is permitted to occupy public right-of-way.

(5) Adult media outlet as set forth in division (D)(9) above shall not be located nearer than 500 feet of the following:

(a) A church, synagogue, mosque, temple or any other building which is used primarily for religious purposes and activities;

(b) A public or private educational facility including, but not limited to, child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle or high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, community colleges, universities and shall include the school grounds of the above identified schools;

(c) Any park, children's playground area or youth sports complex including activity center;

(d) A property line of any lot devoted to a residential use;

- (e) A hospital;(f) A senior citizen center;
- (g) A public library; or
- (h) Any building owned and/or used by a political subdivision.

(6) For purposes of division (E)(5) above, 500 feet shall be measured in a straight line, along the pedestrian way, the shortest walking distance from the front or main door of the adult business to the front or main door of the use or uses identified in the above divisions (E)(5)(a) through (E)(5)(h) above.

(7) Storage of towed vehicles:

(a) Vehicles shall only be stored on-site, pending settlement or legal disposition of vehicles by insurance carrier and/or owner;

(b) All towed and stored vehicles shall be stored behind the front building line;

(c) No demolition of towed or stored vehicles shall be allowed;

(d) All stored vehicles shall be owned by persons other than the towing service owner/operator and/or land owner;

(e) All vehicles shall be stored behind a solid barrier fence of sufficient height to disallow visibility. Height of fence to be set by Planning Commission at the public hearing; and

(f) Use by exception shall only be effective upon compliance to all conditions as set forth by City Council and verified by the Zoning Administrator

(F) *Prohibited uses and structures.* All of the uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from the B-1 district.

(G) *Minimum lot requirements.* The minimum lot area for permitted uses in the B-1 District shall be 12,000 square feet.

(H) *Minimum yard requirements.* The minimum requirements are as follows.(1) *Front yard.* There shall be a minimum front yard of not less than a depth of 100 feet from the centerline of a federal aid-primary designated street or highway or 35 feet from the property line, whichever is greater. In all other streets or highways, there shall be a minimum front yard of not less than a depth of 25 feet from the property line. These yard requirements shall apply to any yard abutting a federal aid-primary designated street or highway regardless of the lot being an interior or corner lot.

(2) *Rear yard.* No rear yard is required, except the minimum rear yard abutting an R District shall be 25 feet.

(3) *Side yard.* No side yard is required, except the minimum side yard abutting an R District shall be ten feet.

(4) *Distance between structures.* The minimum distances between a residential or other principal structure and other structure shall be ten feet.

(I) *Maximum height.* No structure in the B-1 District shall exceed 45 feet, subject to the provisions and in conformance with airport zoning regulations.

(J) *Sign regulations.* All signs in the B-1 District shall be in conformance with the regulations provided in this section and with the provisions of § 152.142 of this chapter.

(K) *Parking regulations.* Parking in the B-1 District shall be in conformance with the provisions of § 152.139 of this chapter.

(L) *Screening.* In the B-1 District, a solid or semi-solid fence or wall at least six feet, but not more than eight feet high, or a ten-foot landscape buffer consisting of trees, shrubs and evergreens, shall be provided adjacent to any adjoining residential use; however, if the adjacent residential use and the commercial development are separated by a street right-of-way, such fence, wall or landscape buffer shall not be required. All fences, walls or buffers shall be maintained by the owner of the property. The finished appearance of the fence shall face the residential use.

(M) *Permitted condition uses.*

(1) A building or premises in a B-1 District may be used for the following in conformance with the prescribed conditions.

(2) Crop production: Not including any agricultural related buildings that include but are not limited to structures used to store grain or house animals.

(3) Veterinarian, veterinarian services or animal hospitals; provided any such building, kennel or exercise runway is located at least 25 feet from any R district boundary.

Section 3. Any other ordinance or parts of ordinance in conflict herewith are repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this 21st day of May, 2019.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk