

CITY OF RAYTOWN
PLANNING & ZONING COMMISSION
SPECIAL MEETING AGENDA

January 16, 2020
7:00 pm

Raytown City Hall
Board of Aldermen Chambers
10000 East 59th Street
Raytown, Missouri 64133

1. Welcome by Chairperson

2. Call meeting to order and Roll Call

Wilson:	Thurman:	Emerson:
Bettis:	Robinson:	Frazier:
Stock:	Dwight:	

3. Approval of January 2, 2020, Meeting Minutes

- a) Revisions
- b) Motion
- c) Second
- d) Additional Board Discussion
- e) Vote

4. Old Business:

A. Case No.: PZ-2019-12

Applicant: City of Raytown

Reason: Proposed Text Amendments to Raytown Municipal Code Chapter 4, "Alcoholic Beverages", Chapter 10, "Business and Business Regulations", and Chapter 50, Article IV, "Districts and District Map"

- 1. Introduction of Application by Chair
- 2. Explanation of any exparte' communication from Commission members regarding the application
- 3. Enter Additional Relevant City Exhibits into the Record:
 - a. Staff report
 - b. Proposed Text Amendments

4. Staff Presentation of Proposed Text Amendments
5. Request for Public Comment by Chairman
6. Commission Discussion
7. Commission Decision to Approve, Conditionally Approve or Deny the Application
 - a. Motion
 - b. Second
 - c. Additional Commission Discussion
 - d. Vote

5. New Business: None.

6. Other Business: None

7. Set Future Meeting Date – Next Regular Meeting, Thursday, February 6, 2020 at 7:00 PM.

8. Adjourn

**CITY OF RAYTOWN
PLANNING & ZONING COMMISSION
REGULAR MEETING
MINUTES**

January 2, 2019
7:00 pm

Raytown City Hall
Board of Aldermen Chambers
10000 East 59th Street
Raytown, Missouri 64133

1. Welcome by Chairperson

2. Call meeting to order and Roll Call

Wilson:	Present	Thurman:	Present	Emerson:	Present
Bettis:	Absent	Robinson:	Present	Frazier:	Present
Stock:	Absent	Dwight:	Present		

3. Approval of Minutes: Minutes of November 21, 2019, approved 6-0 as amended to reflect Thurman present upon motion by Emerson and second by Frazier.

4. New Business

A. Case No.: PZ 2020-01: Public Hearing to Consider a Conditional Use Permit Application Filed by David Hull of DMK Distributors to Operate an Office/Warehouse Use at 10012 E. 64th Street

1. Introduction of Application by Chairman.

Chairman Wilson opened the public hearing and introduced the application. All persons providing testimony were sworn in by Jennifer Baird, City Attorney. David Hull was present as the applicant.

2. Explanation of any Ex Parte Communications Regarding the Application.

No commissioners reported any Ex Parte Communications regarding this application.

3. Enter Relevant Exhibits into the Record.

Chairman Wilson entered the staff report into the record as an exhibit.

4. Introduction of Application by Staff

Chris Gilbert, Planning & Zoning Coordinator provided the staff report. Planning Commission discussion on the application with some questions for staff.

5. Presentation of Application by Applicant.

Mr. David Hull addressed the Planning Commission with a description of why he is needing this Conditional Use Permit and how he is utilizing the building.

6. Request for Public Comment by Chairman.

Richard Jones, a neighboring business owner of Henry's Automotive, spoke on behalf of the applicant, stating he was in support of the application.

7. Additional Staff Comments and Recommendation.

Chris Gilbert provided the staff recommendation to approve the application with a number of conditions attached that were entered into the record. The applicant agreed to the conditions.

8. Commission Discussion.

Planning Commission discussion on the application with some questions for staff.

9. Commission Decision to Approve, Conditionally Approve, or Deny Application.

Ms. Emerson moved and Mr. Frazier seconded a motion to recommend approval of the Conditional Use Permit application. Vote passed 6-0.

B. Case No.: PZ 2019-13: City-Initiated Application to Amend Municipal Code Chapter 50, Article VIII, "Sign Regulations".

1. Introduction of Application by Chairman.

Chairman Wilson opened the public hearing and introduced the application. All persons providing testimony were sworn in by Jennifer Baird, City Attorney.

2. Explanation of any Ex Parte Communications Regarding the Application.

No commissioners reported any Ex Parte Communications regarding this application.

3. Enter Relevant Exhibits into the Record.

Chairman Wilson entered the staff report into the record as an exhibit.

4. Staff Presentation of proposed Text Amendments.

Chris Gilbert, Planning & Zoning Coordinator provided the staff report on proposed changes to the City's Sign Code and the staff recommendation. Planning Commission discussion with questions for staff. Jennifer Baird, City Attorney, gave presentation on proposed legal changes to sign code to comply with recent court rulings.

5. Request for Public Comment by Chairman.

No members of the public were present to provide comment.

6. Commission Discussion.

Planning Commission discussion with questions for staff.

7. Commission Decision to Approve, Conditionally Approve, or Deny Application.

Mr. Robinson moved and Ms. Dwight seconded a motion to recommend approval as recommended in the staff report. Motion passed 6-0.

C. Case No.: PZ 2019-14: City-Initiated Application to Amend Municipal Code Chapter 50, Article IV, "Districts and District Map".

1. Introduction of Application by Chairman.

Chairman Wilson opened the public hearing and introduced the application. All persons providing testimony were sworn in by Jennifer Baird, City Attorney.

2. Explanation of any Ex Parte Communications Regarding the Application.

No commissioners reported any Ex Parte Communications regarding this application.

3. Enter Relevant Exhibits into the Record.

Chairman Wilson entered the staff report into the record as an exhibit.

4. Staff Presentation of proposed Text Amendments.

Chris Gilbert, Planning & Zoning Coordinator provided the staff report on proposed amendments to Zoning Ordinance Use Table regarding vehicle and equipment sales and the recommendation. Planning Commission discussion with questions for staff.

5. Request for Public Comment by Chairman.

No members of the public were present to provide comment.

6. Commission Discussion.

Planning Commission discussion with questions for staff.

7. Commission Decision to Approve, Conditionally Approve, or Deny Application.

Mr. Frazier moved and Mr. Robinson seconded to recommend approval as recommended in the staff report. Motion passed 6-0.

D. Case No.: PZ 2019-12: City-Initiated Application to Amend Municipal Code Chapter 4, "Alcoholic Beverages", Chapter 10, "Business and Business Regulations", and Chapter 50, Article IV, "Districts and District Map".

Chris Gilbert, Planning & Zoning Coordinator, asked the Planning Commission to continue this hearing to a Special meeting on January 16, 2020, to provide more time for staff to work through some concerns that came out of the discussion regarding this item at the November 21, 2019, Planning Commission Meeting.

1. Commission Decision to Continue Hearing to January 16, 2020, Special meeting.

Mr. Frazier moved and Ms. Thurman seconded to continue this item to a Special Meeting on January 16, 2020, at 7:00 PM.

5. Other Business- None.

6. Set Future Meeting Date – Special Meeting on January 16, 2020. Next regular meeting on February 6, 2020, with a CUP application for auto sales to be on the agenda.

7. Adjourn at 8:10 PM upon motion by Ms. Emerson and second by Ms. Dwight.



PZ 2019-12

To: City of Raytown Planning and Zoning Commission
From: Chris Gilbert, Planning & Zoning Coordinator
Date: January 16, 2020
Re: Zoning Ordinance Text Amendments Regarding Moratorium Uses

MORATORIUM USES TEXT AMENDMENTS SUMMARY

In May, 2019, the Raytown Board of Aldermen adopted an Ordinance enacting a temporary moratorium on “Smoke Shops”, “Package Liquor Sales”, and “Convenience Stores” within the Neighborhood Commercial zone district. This moratorium is set to expire at the end of January, 2020, unless extended, or new regulations are adopted by the Board of Aldermen. An Ordinance requesting an extension of two months was presented to the Board of Aldermen on January 7, 2020, for first reading, to provide additional time for review. This set of proposed amendments to the Raytown Municipal Code are designed to put reasonable regulations into place, reducing the impact over time that the number of such existing businesses have on the health, safety, and welfare of the residents of Raytown. Some of the changes affect parts of the Municipal Code that don’t require Planning Commission review, but as ALL the changes are interlinked, they are all provided here as a complete package.

Significant changes made since the November 21, 2019, meeting all involve removing hindrances to existing businesses being able to continue business and expand or sell if necessary without having to meet proposed new distance separation requirements. A six month timeframe for discontinuation of use is proposed that is consistent with the non-conformity section of the Zoning Ordinance. Number per population city-wide was removed as well in favor of control through distance separations, all of which are consistent with Medical Marijuana distance separations or Liquor Sales distance separations. The one exception is in the case of distance between such uses in an effort to discourage clustering in favor of a more spread out distribution to reduce impacts on any one part of the City.

Changes to Chapter 4 of Municipal Code Regarding package Liquor Sales:

- Requires compliance with Zoning Ordinance location requirements for all new liquor stores
- Permits existing businesses to change ownership within 6 months of license expiration or cessation of activity, consistent with non-conforming use termination timeframes

Changes to Chapter 10 of Municipal Code Regarding Smoke and Tobacco Establishments

- Adds Vaping/e-cigarette Establishments
- Requires compliance with Zoning Ordinance location requirements for all new such establishments



Staff Report

Community Development
Planning and Development Services

- Permits existing businesses to change ownership within 6 months of license expiration or cessation of activity, consistent with non-conforming use termination timeframes

Changes to Chapter 50, Article I, regarding Zoning Ordinance Definitions

- Redefines Convenience Store to be what is traditionally thought of as a convenience store...gas sales linked to a nationwide or store chain proprietary fuel brand plus the convenience of a variety of items for sale inside the store.

Changes to Chapter 50, Article IV, regarding the Zoning District Map and Use table

- Adds a Use Table note under Conditions for existing Convenience Store category providing criteria for qualifying for this use.
- Adds a new Use Table Category and a note under Conditions for Package Liquor Sales and providing zoning location criteria for such uses.
- Adds a new Use Table Category and a note under Conditions for Tobacco or Vaping/E-cigarette Product Sales and providing zoning location criteria for such uses.

Attachments:

- Notice of Public Hearing
- Moratorium Ordinance dated 21 May, 2019
- Revised Proposed Ordinance Changes to Address Moratorium Uses

AFFIDAVIT OF PUBLICATION

STATE OF MISSOURI
COUNTY OF JACKSON

} S.S.

Page 1 of 2

Before the undersigned Notary Public personally appeared **Lisa Fowler** on behalf of **THE DAILY RECORD, KANSAS CITY** who, being duly sworn, attests that said newspaper is qualified under the provisions of Missouri law governing public notices to publish, and did so publish, the notice annexed hereto, starting with the **December 09, 2019** edition and ending with the **December 09, 2019** edition, for a total of 1 publications:

12/09/2019

Lisa Fowler

Subscribed & sworn before me this 9th day of Dec, 2019
(SEAL)

Notary Public



Notice of Public Hearing

The City of Raytown is in the process of amending Chapter 4, entitled "Alcoholic Beverages", Chapter 10, entitled "Businesses and Business Regulations", and Chapter 50, entitled "Zoning", of the Raytown Municipal Code, to amend zoning and licensing regulations for Liquor Stores, Smoke and Tobacco Establishments, and Convenience Stores, and to add zoning and licensing regulations for businesses involved in the sale of vaping or e-cigarette-related products, to be applicable city-wide.

A public hearing to consider these proposed new regulations will be held by the Raytown Planning & Zoning Commission at 7:00pm on **Thursday, January 2, 2020**. A copy of the agenda and packet including a staff report with the proposed changes will be available for viewing on the City of Raytown's website, www.raytown.mo.us, on Friday, December 27, 2019.

The Raytown Board of Aldermen will also hold public hearings regarding the above-described new regulations, tentatively scheduled for 7:00pm on **Tuesday, January 7, 2020**, and 7:00pm on **Tuesday, January 21, 2020**.

All public hearings will take place in the Council Chambers at Raytown City Hall located at 10000 E. 59th St. Raytown, MO 64133.

The public is invited to attend the public hearing to ask questions and provide comment regarding this application. Additional information regarding this application can be obtained from the Department of Community Development located in Raytown City Hall at 10000 East 59th Street, by telephone at (816) 737-6059 or by e-mail at chrisg@raytown.mo.us.

If you will require any special accommodation (i.e., qualified interpreter, large print, reader, hearing assistance) in order to attend either of these public hearings, please notify the

AN ORDINANCE DECLARING A NINE (9) MONTH MORATORIUM ON THE ACCEPTANCE, PROCESSING AND ISSUANCE OF BUSINESS LICENSE APPLICATIONS, BUILDING PERMITS, OCCUPANCY PERMITS, PACKAGE LIQUOR LICENSES AND DEVELOPMENT APPROVAL APPLICATIONS FOR LIQUOR STORES, SMOKE SHOPS, AND CONVENIENCE STORES AND SIMILAR USES WITHIN NEIGHBORHOOD COMMERCIAL ZONED DISTRICTS WITHIN THE CITY OF RAYTOWN

WHEREAS, the Board of Aldermen of the City of Raytown, Missouri ("Board of Aldermen"), pursuant to its power under §89.020 RSMo, is considering future action as a means to promote the general welfare of its citizens by preserving and improving property values, promoting commerce, as well as maintaining the general character of the community currently existing within the territorial limits of the City of Raytown, Missouri ("City"); and

WHEREAS, the Mayor and Board of Aldermen have considered applications for the use of property within the City of Raytown as liquor stores, smoke shops, and convenience stores; and

WHEREAS, the Neighborhood Commercial District is intended for miscellaneous retail, wholesale businesses serving consumers and is a typical transition between residential and more intense commercial areas of the City; and

WHEREAS, the Board of Aldermen recognized that the City's zoning ordinance and other City ordinances do not grant to the City, to the fullest extent necessary, the authority to regulate these businesses and to make critical and difficult decisions on whether to approve or deny applications for such businesses and also recognized that the staff has not had sufficient time to prepare 1) necessary revisions to the zoning ordinance and 2) an ordinance related to the applicability of licensing provisions to these businesses and, therefore, has instructed staff to revise the zoning ordinance and draft an ordinance related to licensing provisions of these businesses; and

WHEREAS, the careful and prudent analysis of the City's stated intent and purpose for the Neighborhood Commercial District juxtaposed to the apparently contrary permitted use of liquor stores, smoke shops and convenience stores in Neighborhood Commercial Districts, including but not limited to an analysis of current building composition and stock, the City's possible and desired future development, the City's current zoning regulations, the City's economic development plan and goals, and other pertinent information, especially national, regional, and local economic trends, is required by the Board of Aldermen to reach an informed decision as to the propriety and direction of resolving the apparent conflict between the stated intent of the Neighborhood Commercial District and the aforementioned contrary use, and to successfully craft an appropriate ordinance to the textual conflict that properly promotes the general welfare of the City's citizens if such action is found to be necessarily subsequent to the Board of Aldermen's analysis; and

WHEREAS, the Board of Aldermen, therefore, must prevent the establishment of vested rights or non-conforming businesses that will undermine the effect of pending ordinance amendments before they are adopted, thereby protecting the zoning process and the business licensing regulatory process; and

WHEREAS, the Board of Aldermen, also recognizes that it has an equally important duty to fully consider applications for these type of business whenever such applications are consistent with the proposed amendments to the City's zoning ordinance and the pending ordinance related to licensing provisions of these types of businesses, and that is it necessary that the status quo be preserved in the City for the shortest amount of time that will allow the City to fully consider and adopt an amendment to the zoning ordinance and an ordinance related to licensing provisions of these businesses that most rationally achieves the Board of Aldermen's stated objectives; and

WHEREAS, it is in the best interest of the citizens to protect and promote property and building values within the City through a coordinated and harmoniously consistent zoning code because such values are inherently tied to the collective stability, peace of mind, and future economic opportunities of the citizens, and therefore the general welfare; and

WHEREAS, a nine (9) month moratorium on: (1) the acceptance of development approval applications, and (2) the issuance of building permits, occupancy permits, business licenses, and liquor licenses for liquor stores, smoke shops or convenience stores located in Neighborhood Commercial Districts within the City is necessary to give the Board of Aldermen time to analyze the relevant information to determine the propriety and effects of future action in order to prevent such applicants from obtaining vested rights to operate these types of business that will not conform with the requirements of the pending zoning ordinance amendments and licensing ordinance provisions and that will provide the City with the ability to address these issues as a part of the development approval process, and to develop and pass any needed legislative mechanism related thereto, with the caveat that should the Board of Aldermen determine additional time is needed to complete said analysis or take any necessary action, said moratorium may be further extended.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF RAYTOWN, MISSOURI, AS FOLLOWS:

SECTION 1. That from and after the passage and approval of this Ordinance (the "Approval Date"), and for a period of 9 months, pertaining to any and all land zoned Neighborhood Commercial within the City of Raytown, Missouri, the City, its officers, officials, agents, and assigns, shall:

- A) Not accept any development approval applications for the intended use of a liquor store, smoke shop or convenience store; and
- B) Not accept any applications for or issue any building permits, occupancy permits, business licenses, or package liquor licenses pertaining to new construction of a liquor store, smoke shop or convenience store; and
- C) Not allow new construction of, continued new construction of, or other new development of a liquor store, smoke shop, convenience store or any similar developments for which a required permit for new construction has not been previously granted to begin or to be continued, unless the structure, construction, or other development had been previously approved by the City, and all other applicable approvals required to be received before a permit for a structure, construction, or other development have been granted, unless an application has already been received by the City initiating the formal process of securing the approvals necessary to commence such activity at a specific location.

SECTION 2. That the Board of Aldermen hereby directs that no new business license application, new package liquor license application, new occupancy permit application, building permit, or development approval application for the types of businesses defined in Section 1 of this Ordinance, filed after the Approval Date, shall be processed until the pending amendments to the City's zoning ordinance and ordinances related to licensing provisions for such businesses have been adopted by the Board of Aldermen and are in effect, except for such businesses that obtained a valid business license, occupancy permit, building permit, or development approval prior to the Approval Date, provided that, in no event shall this direction extend beyond January 31, 2020, unless the Board of Aldermen extends the date by majority vote at a duly noticed meeting.

SECTION 3. That the Board of Aldermen hereby directs that no new package liquor license application or transfer of package liquor license location application for the types of businesses defined in Section 1 of this ordinance, filed after the Approval Date, shall be processed until the pending amendments to the City's zoning ordinance and an ordinance related to licensing provisions for such businesses have been adopted by the Board of Aldermen and are in effect, except for such businesses that obtained a valid business license, liquor license, occupancy permit, building permit, or development approval prior to the Approval Date, provided that, in no event shall this direction extend beyond January 31, 2020, unless the Board of Aldermen extends the date by majority vote at a duly noticed meeting.

SECTION 4. That the Board of Aldermen hereby directs that the renewal of a business license application and package liquor license application for the types of businesses defined in Section 1 of this ordinance, filed after the Approval Date, shall be processed during the pending amendments to the City's zoning ordinance and an ordinance related to licensing provisions for such businesses that have been adopted by the Board of Aldermen.

SECTION 5. That the Board of Aldermen hereby directs that renewal of package liquor license applications for the types of businesses defined in Section 1 of this ordinance that shall also maintain a valid Raytown business license and are issued a renewal package liquor license from the State of Missouri during the pending amendment, filed after the Approval Date, shall be processed during the pending amendment to the City's zoning ordinance and an ordinance related to licensing provisions for such businesses that have been adopted by the Board of Aldermen.

SECTION 6. That the Board of Aldermen hereby directs any new package liquor license applications filed due to change of ownership for an existing business staying at the same business location within Neighborhood Commercial for the types of businesses defined in Section 1 of this Ordinance, filed after the Approval Date, shall be processed during the pending amendments to the City's zoning ordinance and an ordinance related to licensing provisions for such businesses that have been adopted by the Board of Aldermen.

SECTION 7. It shall be unlawful for anyone to begin new construction or continue new construction pertaining to the types of businesses defined in Section 1 of this ordinance during the pending amendment to the City's zoning ordinance and an ordinance related to the licensing provisions for such businesses that have been adopted by the Board of Aldermen.

SECTION 8. Any person who fails to comply with the provisions of this Ordinance, and who has been adjudged in violation of this ordinance by a court of competent jurisdiction shall be fined not less than two hundred dollars (\$200). Each day such person is found to have been in violation of this ordinance shall be deemed a separate offense. Nothing in this Section shall be deemed to prohibit the City from seeking any or all alternative relief provided in law or equity, including specifically the City's ability to seek an injunction to preclude a violation hereof.

SECTION 9. That, if, upon submission of an application and rejection of that application, an applicant believes that the City's determination not to accept or to process a business license application, building permit, liquor license application, or development approval application for such business is unreasonable, the applicant may file a written appeal of the determination with the City Clerk within five (5) days of the determination. If an appeal is timely and properly filed, the City Clerk shall schedule a hearing before the Board of Aldermen at its next regularly scheduled meeting at which the applicant shall bear the burden of establishing by clear and convincing evidence that the acceptance or processing of the subject application will not undermine the spirit and intent of the pending ordinances. If the Board of Aldermen determines that such action will not undermine the spirit and intent, it shall direct that the application be accepted for processing and/or processed as the case may be.

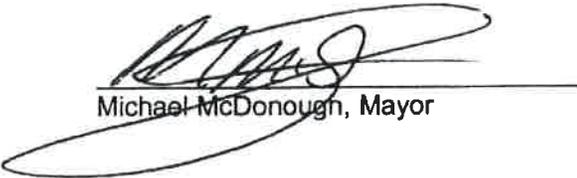
SECTION 10. That upon the filing of an appeal, the City shall establish guidelines for the Board of Aldermen to utilize in determining whether the application, with respect to which an appeal has properly been filed, if approved, will undermine the spirit and intent of the pending ordinances.

SECTION 11. The provisions of this Ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

SECTION 12. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

SECTION 13. That this Ordinance is not intended as, and should not be interpreted as, an amendment to the City's zoning ordinance, but is merely direction to staff with respect to the acceptance of and processing of business license applications, building permits, liquor license applications, and development applications for such businesses in the City.

BE IT REMEMBERED that the above was read two times by heading only, **PASSED** and **ADOPTED** by a majority of the Board of Aldermen and **APPROVED** by the Mayor of the City of Raytown, Jackson County, Missouri, this 21st day of May, 2019.



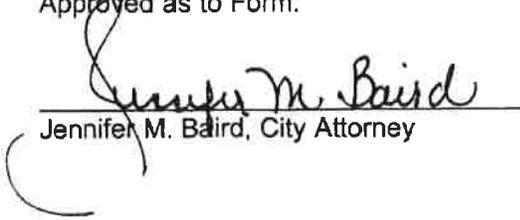
Michael McDonough, Mayor

ATTEST:



Teresa M. Henry, City Clerk

Approved as to Form:



Jennifer M. Baird, City Attorney

Moratorium Uses Draft Ordinance Amendments

CHAPTER 4, ARTICLE IV.-Licenses

Sec. 4-109. - Full original package sales license.

1. A license shall be issued to all applicants who have complied with this chapter, licensing such applicant to sell at retail alcoholic beverages in the original package on the licensed premises, upon payment to the city collector for each such license in an amount set forth in the city's schedule of fees and charges.
2. Any new business license applicant under this license category ~~that expects to exceed twenty percent of Total Gross Receipts through either full original package Liquor sales or malt liquor original package sales, or a combination thereof,~~ shall first meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to a license being issued. Applicant shall provide an approved Commercial Use Permit for the proposed location at time of application.
3. ~~Any existing business licensed under this category that, upon renewal of such license, has transitioned from under 20 percent to 20 percent or more of Total Gross Receipts through either full original package liquor sales or malt liquor original package sales, or a combination thereof, shall meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to the license being renewed. Applicant shall provide an approved Commercial Use Permit for the business location prior to consideration for renewal. Failure to meet the requirements for such Commercial Use Permit shall result in denial of the business license renewal application.~~
4. Any existing business licensed under this category that has had a change of ownership occur resulting in the owner listed on the original business license application no longer controlling at least 51 percent of the interest in the business, it shall be deemed a new business and shall apply for a new business license in accordance with Chapter 10 of the Raytown Municipal Code. If the previous owner's business license expired more than six (6) months prior to the new owner filing business license application to take over control of the business, the new application to change ownership shall not be approved unless the requirements of Municipal Code Section 50-107, pertaining to zoning and location requirements, can be met. This shall also apply if the physical use of a specific location for package liquor sales has ceased for a period of six (6) months or more. ~~If such new business expects to exceed twenty percent of Total Gross Receipts through either full original package Liquor sales or malt liquor original package sales, or a combination thereof,~~

~~it shall first meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to a license being issued. Applicant shall provide an approved Commercial Use Permit for the proposed location at time of application. Failure to meet the requirements for such Commercial Use Permit shall result in denial of the new business license application.~~

(Code 1969, § 3-46; Ord. No. 2296-81, § 1, 10-20-1981; Ord. No. 2568-83, § 2, 8-16-1983; Ord. No. 5384-10, § 1(3-46), 12-21-2010; Ord. No. 5447-13, § 1(3-46), 3-19-2013)

Sec. 4-110. - Malt liquor original package sales license.

1. A license shall be issued to all applicants who have complied with this article, licensing such applicant to sell at retail malt liquor in the original package on the licensed premises, upon payment to the city collector for each such license in an amount set forth in the city's schedule of fees and charges.
2. Any new business license applicant under this license category ~~that expects to exceed twenty percent of Total Gross Receipts through either full original package Liquor sales or malt liquor original package sales, or a combination thereof,~~ shall first meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to a license being issued. Applicant shall provide an approved Commercial Use Permit for the proposed location at time of application.
3. ~~Any existing business licensed under this category that, upon renewal of such license, has transitioned from under 20 percent to 20 percent or more of Total Gross Receipts through either full original package liquor sales or malt liquor original package sales, or a combination thereof, shall meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to the license being renewed. Applicant shall provide an approved Commercial Use Permit for the business location prior to consideration for renewal. Failure to meet the requirements for such Commercial Use Permit shall result in denial of the business license renewal application.~~
4. Any existing business licensed under this category that has had a change of ownership occur resulting in the owner listed on the original business license application no longer controlling at least 51 percent of the interest in the business, it shall be deemed a new business and shall apply for a new business license in accordance with Chapter 10 of the Raytown Municipal Code. If the previous owner's business license expired more than six (6) months prior to the new owner filing business license application to take over control of the business, the new application to change ownership shall not be approved unless the requirements of Municipal Code Section 50-107, pertaining to zoning and location requirements, can be met. This shall also apply if the physical use of a specific location for package liquor sales has ceased for a period of six (6) months or more. ~~If such new~~

~~business expects to exceed twenty percent of Total Gross Receipts through either full original package Liquor sales or malt liquor original package sales, or a combination thereof, it shall first meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to a license being issued. Applicant shall provide an approved Commercial Use Permit for the proposed location at time of application. Failure to meet the requirements for such Commercial Use Permit shall result in denial of the new business license application.~~

(Code 1969, § 3-47; Ord. No. 2296-81, § 1, 10-20-1981; Ord. No. 2568-83, § 2, 8-16-1983; Ord. No. 5384-10, § 1(3-47), 12-21-2010; Ord. No. 5447-13, § 1(3-47), 3-19-2013)

CHAPTER 10, ARTICLE XVII. – SMOKE, VAPE/E-CIGARETTE, AND TOBACCO ESTABLISHMENTS

Sec 10-26. – Application for license.

(e) *Estimates by new businesses required.* New businesses shall estimate their gross income for license tax purposes as contemplated herein ~~upon that amount of gross business consummated during the first calendar quarter of the existence of said business.~~ in accordance with Section 10-27 (b) of this Chapter.

Sec. 10-573. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Smoke and tobacco store means a retail store used primarily for the sale of tobacco products and accessories ~~and where more than 70 20 percent or more of the volume of where the trade or business~~ carried on there is that of the blending of tobaccos or sales of tobaccos, cigarettes, pipes, cigars or smoking sundries and in which the sale of other products is incidental. A "retail tobacco store" shall not include a tobacco department used primarily for the sale of smoking materials as part of a larger commercial establishment such as a department store, grocery store, discount store, ~~convenience store,~~ or bar or retail store where sales from such department comprise less than ~~70 20~~ 5 percent of the business's total volume of trade or sales.

Vaping (e-cigarette) Store means a retail store used primarily for the sale of vaping products and e-cigarettes that ~~does not~~ may or may not include tobacco or tobacco-related products but may include and vaping paraphernalia as defined in this Section.

Tobacco or Vaping (e-cigarette) paraphernalia means any instrument, utensil or device used for smoking or inhaling tobacco or similar plant products including, but not limited to, rolling papers; metal wooden, acrylic, glass, stone, plastic or ceramic pipes; water pipes; hookahs; carburetion tubes and devices; and bong. ~~Also means any similar instrument, utensil or device utilized for inhaling vaping liquid or for the use of e-cigarettes. All such products sold by a licensed Medical Marijuana facility shall not be included~~

in this definition. However, such sales shall be subject to, and compliant with, the provisions of Chapter 50, Article XII, Medical Marijuana.

(Ord. No. 5513-15, § 2, 1-20-2015)

Sec. 10-574. - Permit to operate a smoke and tobacco store or a vaping (e-cigarette) store.

(a) *Required.* It shall be unlawful for any person to own or operate a smoke and tobacco store or a vaping (e-cigarette) store in the city limits of Raytown without having first obtained zoning clearance and a business license issued by the city. ~~Any new business license applicant under this license category that expects to exceed twenty percent of Total Gross Receipts through either~~ that expects to primarily engage in smoke and tobacco or vaping (e-cigarette) sales, including related paraphernalia, or a combination thereof, shall first meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to a license being issued.

(b) *Application.* Any person desiring to operate a tobacco store or vaping (e-cigarette) store shall make an application with the business license administrator for a permit to operate such business ~~containing~~ on an annual basis. Such application shall contain the following information:

- (1) Name, address, and daytime telephone number of applicant.
- (2) If a partnership, the names and addresses of each partner.
- (3) If a corporation, the name and address of each officer, director, shareholder, and the name and address of the resident agent of the corporation.
- (4) If a corporation, a certificate of good standing issued by the secretary of state.
- (5) The name, address and photo identification of the person responsible and accountable for the day-to-day operation of the business.
- (6) The location of the proposed establishment, including a drawing of the interior of the proposed premises showing the dimensions thereof, and indicating the location of all furniture, equipment, and appliances to be used in connection with such establishment.
- (7) The proposed hours of operation for such establishment.
- (8) The percentage of sales related to tobacco or vaping (e-cigarette) products for the business.
- (9) Provide an approved Commercial Use Permit for the proposed location showing that all requirements of Section 50-107 of the Zoning Ordinance have been met. This shall not be required for renewals unless a change of ownership has occurred in accordance with Section 10-574 (c) (1).

(c) *Issuance.*

- (1) No business license issued under the provisions of this article shall be transferable. Any change in ownership shall require a new business license application with additional license fees. Any existing business licensed under this category that has had a change of ownership occur resulting in the owner listed on the original business license application no longer

controlling at least 51 percent of the interest in the business, it shall be deemed a new business and shall apply for a new business license in accordance with Section 10-574 (b) of the Raytown Municipal Code. If the previous owner's business license expired more than six (6) months prior to the new owner filing business license application to take over control of the business, the new application to change ownership shall not be approved unless the requirements of Municipal Code Section 50-107, pertaining to zoning and location requirements, can be met. This shall also apply if the physical use of a specific location for package liquor sales has ceased for a period of six (6) months or more. ~~If such new business expects to exceed twenty percent of Total Gross Receipts through either smoke and tobacco sales or vaping (e-cigarette) sales, including related paraphernalia, or a combination thereof, it shall first meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to a license being issued. Applicant shall provide an approved Commercial Use Permit for the proposed location at time of application. Failure to meet the requirements for such Commercial Use Permit shall result in denial of the new business license application.~~

(2) Any business license issued under the provisions of this article shall be conspicuously posted or displayed by the applicant during all business operations by such applicant.

(3) No business license shall be issued under the provisions of this article to any person, firm or corporation until all tangible personal property taxes and real estate taxes owing by such applicant, if any, shall have been fully paid.

~~(4) Any existing business licensed under this category that, upon renewal of such license, has transitioned from under 20 percent to 20 percent or more of Total Gross Receipts through either smoke and tobacco sales or vaping (e-cigarette) sales, including related paraphernalia, or a combination thereof, shall meet the requirements of Chapter 50-107 of the Municipal Code as pertains to zoning and location requirements prior to the license being renewed. Applicant shall provide an approved Commercial Use Permit for the business location prior to consideration for renewal. Failure to meet the requirements for such Commercial Use Permit shall result in denial of the business license renewal application.~~

(d) *Fee.* The fee for the business permit in this article shall be based upon the formula for gross annual receipts, as provided by the Schedule of license fees in [section 10-52](#) of the Raytown Municipal Code.

(Ord. No. 5513-15, § 2, 1-20-2015)

Sec. 10-575. - Restrictions on sale and distribution of tobacco paraphernalia.

(1) The on-site display, sale or distribution of tobacco paraphernalia to consumers is hereby prohibited except in retail tobacco stores.

(2) No person shall display, sell or distribute tobacco paraphernalia to any person less than 18 years of age.

(3) No person shall display, sell or distribute tobacco paraphernalia except as provided in this section.

(4) All laws and requirements regarding the sale and possession of tobacco and tobacco-related products governed by [chapter 10](#), article III, as well as [chapter 28](#), article XI, [section 28-394](#) of the Raytown Municipal Code shall remain in effect, and shall not be repealed by this ordinance.

(Ord. No. 5513-15, § 2, 1-20-2015)

Sec. 10-576. - ~~General requirements.~~ Restrictions on sale and distribution of vaping (e-cigarette) paraphernalia.

~~(1) A smoke and tobacco store shall not locate or expand an existing operation within:~~

~~a. 2,640 feet of the boundary of the city;~~

~~b. 2,640 feet of any other property on which another smoke and tobacco shop is located;~~

~~c. 500 feet of any property legally used as a public park, school, church or residence.~~

~~(2) The separation distance shall be measured from or to the outer wall of the smoke and tobacco store, and from or to the property line of the property containing the public park, school, church or residential property.~~

~~(3) Separation distance provisions shall not apply to any smoke and tobacco store that can demonstrate that they were in operation at the location requested in the business license application prior to the effective date of the ordinance from which this article is derived, and they have operated continuously under the same business name since that time.~~

~~(4) Notwithstanding any other provision contained within this article, no business license may be issued for a smoke and tobacco store where it is determined that the total number of such facilities will exceed a population density factor of one such establishment per 5,000 residents based on the last decennial census.~~

~~(Ord. No. 5513-15, § 2, 1-20-2015)~~

(1) The on-site display, sale or distribution of vaping (e-cigarette) paraphernalia to consumers is hereby prohibited except in retail vaping (e-cigarette) stores.

(2) No person shall display, sell or distribute vaping (e-cigarette) paraphernalia to any person less than 18 years of age.

(3) No person shall display, sell or distribute vaping (e-cigarette) paraphernalia except as provided in this section.

Sec. 10-577. - Applicability.

The standards of this article apply to tobacco ~~and convenience stores~~ and vaping (e-cigarette) stores, as defined by this ordinance.

(Ord. No. 5513-15, § 2, 1-20-2015)

Sec. 10-578. - Penalty.

Any person, firm or corporation violating the provisions of this article shall be guilty of a municipal offense and, upon conviction, shall be subject to the penalties provided in [section 1-22](#). In addition, any violation of this article shall be grounds for the city to revoke any or all licenses or permits issued by the city.

(Ord. No. 5513-15, § 2, 1-20-2015)

Secs. 10-579—10-585. - Reserved.

CHAPTER 50, ARTICLE I. – IN GENERAL

Sec. 50-4. - Definitions.

Convenience store means a small retail establishment that is open long hours, typically sells staple groceries, snacks, and beverages, and ~~may~~ shall be primarily engaged in the retail sale of gasoline or other motor fuels (~~contracted to either a nationally branded fuel refiner/distributor or a convenience store chain proprietary brand~~) subject to the approval of a conditional use, along with accessory activities such as the sale of lubricants, accessories and supplies. ~~but~~ This definition shall not include the lubrication of motor vehicles, and the adjustment or repair of motor vehicles. ~~This definition shall not include any business where the primary business activity is the sales of tobacco, tobacco products, vaping/e-cigarette products, and package liquor, or any combination thereof that constitutes a majority of the business activity where sales of gasoline and sundries are incidental. equal 20 percent or more of gross receipts for the convenience store in accordance with Chapter 10, Article 17 of the Raytown Municipal Code. This definition shall not include any type of package liquor sales that equal 20 percent or more of gross receipts for the convenience store in accordance with Chapter 4, Article 4, of the Raytown Municipal Code.~~

(Code 1969, § 16-1; Ord. No. 139, § 1, 7-19-1966; Comp. Ord. of 4-20-2010, §§ 2-1, 11-7; Ord. No. 5571-17, §§ 1, 2, 3-7-2017; Ord. No. 5580-17, §§ 1, 2(Exh. A), 9-5-2017)

CHAPTER 50, ARTICLE IV. – DISTRICTS AND DISTRICT MAP

Sec. 50-107. – Land Use Table.

(a) *Generally*. The following land use table identifies uses that are either permitted by right, require approval of a conditional use permit or are not allowed in each of the applicable districts. Many of the uses are defined in [section 50-4](#). Any uses that are not defined in [section 50-4](#) shall be given their common meaning.

(1) *Permitted (allowed by right)*. Uses identified in a zoning district column of the Use Table with a "P" are "permitted by-right" and shall be permitted in such zoning district, subject to such special use regulations as may be indicated in the "conditions" column and all other requirements of this article.

(2) *Conditional uses.* Uses identified in a zoning district column of the Use Table with a "C" are "conditional uses" and shall be permitted in such zoning district if reviewed and approved in accordance with the standards of article V of this chapter. Conditional uses shall be subject to such special regulations as may be specified in article V of this chapter and all other requirements of the city Code.

(3) *Not permitted.* Uses not identified in a zoning district column of the Use Table as permitted by-right or by conditional use are not allowed in such zoning district unless otherwise expressly permitted by other regulations of the city Code.

(4) *Conditions.* A letter in the "conditions" column of the Land Use Table refers to standards applicable to a particular use in one or more of the districts in which such use is allowed. The referenced regulations appear in subsection (b) of this section.

(b) *Land use conditions.* The following standards shall apply to permitted, conditional and accessory uses:

(1) Single-household dwellings, excluding manufactured or mobile homes, shall have a permanent foundation.

(2) Dwellings used for small group living, shall be subject to the following requirements:

a. No alterations or additions shall be made to a dwelling or accessory structure which will alter the residential appearance of such dwelling.

b. No dwelling used for small group living shall be located within 1,200 feet of another dwelling used for group living, large or small, or a residential care facility, as measured from the nearest property line to the nearest property line.

c. No traffic shall be generated by such group home between the hours of 10:00 p.m. and 6:00 a.m. in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such group home shall be met by off-street parking areas not located in a required front yard.

d. The dwelling shall meet all requirements of the city's adopted codes relating to the safety of occupants, including, but not limited to building and fire codes.

(3) Churches, chapels, mosques, synagogues and temples shall be located on a minimum of a one acre size lot, if located in accordance with at least one of the following:

a. On a lot having a sideline common to a public park, playground, or cemetery, or directly across a street from any one of combination of said uses.

b. On a corner lot having a minimum of 100 feet frontage on one side.

c. On a lot three sides of which adjoin streets.

(4) Golf courses shall be:

- a. Used for daytime use only, including accessory clubhouses and related daytime driving ranges. This requirement shall not be applicable to independent golf driving ranges, pitch and putt or miniature golf courses.
 - b. Placed on lots greater than one acre.
- (5) a. Residential accessory uses, including automobile parking areas, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a business or industry, are permitted. Such accessory uses shall not include raising animals, with the exception that one horse per 40,000 square feet lot may be kept in a detached stable. Detached accessory structures should be at least five feet from any property line. Accessory buildings shall not exceed 720 square feet.
- b. Accessory buildings and uses in the NC districts that are customarily incidental to the above permitted uses are allowed, provided there shall be no manufacture, processing or compounding of products other than such that are customarily incidental and essential to such permitted use. Accessory buildings and uses shall be constructed in a style and manner similar to the principal building or use.
 - c. In the HC district, accessory buildings and uses customarily incidental to the above uses if they are constructed in a style and manner similar and sympathetic to a principal building or use.
 - d. Land in the HC district that is adjacent to a district in which a single-household home is permitted, no article or material stored or offered for sale in connection with uses permitted above shall be stored or displayed outside the confines of a building unless it is so screened by permanent ornamental walls, fences or planting that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level.
 - e. In the HC district, automobile sales and automobile service stations engaged in the sale of gasoline and oil, open display may be permitted of merchandise commonly sold by automobile service stations (e.g., oil, batteries, tires, wiper blades, etc.). No permanent open display will be permitted on sidewalks or public rights-of-way. Such display will be adequately screened from adjacent residential property.
 - f. In the Town Square Overlay District, no article or material stored or offered for sale shall be stored or displayed outside the confines of a building unless otherwise approved by the board of aldermen as part of a development plan or is otherwise permitted by a temporary permit governed by [section 50-15](#).
- (6) Private swimming pools, if more than two feet deep, shall be subject to the following conditions and requirements:
- a. They must be located behind the front building line and not less than ten feet from any rear or side lot line, and in the case of corner lots, not less than 15 feet from a side street line and at least 20 feet from a principal building on an adjoining lot.
 - b. If located in the side yard, they shall not be less than 40 feet from the front line and not less than 15 feet from the side lot line.

c. The area in which the pool is located shall be entirely enclosed and separated from adjoining property by a protective fence or other permanent structure of a non-climbable variety at least four feet in height but less than six feet in height.

d. Such protective enclosures shall be provided with gates equipped with locks, which shall be locked when the pool is not attended.

e. Adequate pool drainage facilities shall be provided for which the plans and specifications shall be approved by the director of community development and public affairs or some other duly qualified individual.

(7) Home occupations shall be subject to the following use standards:

a. Said use shall be conducted solely within the confines of the main dwelling and shall not exceed 25 percent of the floor area.

b. Garages or carports, whether attached or detached, shall only be used for the storage of automobiles related to the home occupation.

c. All materials, equipment and samples associated with such home occupation shall be stored completely within the dwelling.

d. No alterations or additions shall be made to a dwelling or accessory structure for business or commercial purposes which will alter the residential appearance of such dwelling.

e. There shall be no entrance or exit way specifically provided in the dwelling or on the premises for the conduct of the home occupation.

f. Permitted home occupations shall not include the employment of any persons not residing on the premises.

g. No traffic shall be generated by such home occupation between the hours of 10:00 p.m. and 6:00 a.m. in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by off-street parking areas not located in a required front yard.

h. The home occupation shall not cause the elimination of required off-street parking.

i. No uses that create excessive illumination, noise, odor, dust, vibration, air pollution, water pollution or conflict with the use of adjacent property for residential uses are permitted.

j. A family day care home may be operated as a home occupation, subject to the following conditions:

1. The family day care must be operated by a person who resides in the single-family dwelling.

2. Care is provided to no more than five children not related to the day care provider, at any one time.

3. At least 500 square feet of contiguous, compact outside play area in the rear yard of the premises must be available for outside recreation of children.
 4. Play area must be enclosed with a fence at least 60 inches in height.
 5. An off-street, unobstructed, paved parking area for the pick up and drop off of participants must be provided.
 6. Any body of water, natural or manmade, must be fenced and secured in accordance with this Code.
 7. No family day care home shall be located within 1,200 feet of any other type of day care, as measured from nearest property line to nearest property line.
- k. An adult day care may be operated as a home occupation, subject to the following conditions:
1. The adult day care must be operated by a person who resides in the single-family dwelling.
 2. Care is provided for no more than five adults at any one time. An adult day care participant, who is not mentally or physically capable of negotiating a normal path to safety, shall count as three persons. The city may request a statement from a physician that a participant is mentally and physically capable of negotiating a normal path to safety. When assistive devices or aids are necessary for an adult day care participant to negotiate a normal path to safety, the adult day care shall be handicap accessible.
 3. When assistive devices or aids are necessary for an adult day care participant to negotiate a normal path to safety, the adult day care shall be handicap accessible.
 4. Rear yard must be enclosed with a fence at least 60 inches in height.
 5. An off-street, unobstructed, paved parking area for the pick up and drop off of adults must be provided.
 6. No adult day care home shall be located within 1,200 feet of any other type of day care, as measured fm nearest property line to nearest property line.
- l. The following uses are specifically prohibited as home occupations:
1. Retail or wholesale sales;
 2. Sales to the public on the premises not incidental thereto;
 3. Equipment rental;
 4. Sale of any parts;
 5. Lawnmower, appliance equipment and machinery repair;
 6. Automobile and other motor vehicle repair services and/or sales; and
 7. Uses requiring the storage or use of highly flammable, toxic or other hazardous materials.

Specifically prohibited home occupations may receive a home occupancy accessory use permit from the board of zoning adjustment.

m. A home occupation permit shall be issued to the applicant, and the same shall not be transferable or assignable, nor shall it be contained on the subject property after the use shall have been discontinued or abandoned for a period of 60 days.

n. Home occupations established prior to the enactment of these regulations will continue to be subject to the zoning regulations in effect on the date that the home occupation was commenced. A home occupation permit subject to the provisions of these zoning regulations will be required after the discontinuance or abandonment of such a home occupation.

(8) Two-household condominium dwellings as long as they are provided with separate utility connections and are constructed with appropriate zero lot line coverage.

(9) A residential care facility or a dwelling used for large group living, subject to the following requirements:

a. At least 500 square feet of contiguous, compact outside recreation area must be provided for every five residents.

b. The recreation area must be fenced with a fence at least 60 inches in height.

c. Parking. Parking shall be met by off-street parking areas not located in a required front yard, as determined by the requirements of the zoning district.

d. No alterations or additions shall be made to a dwelling or accessory structure which will alter the residential appearance of such dwelling.

e. No traffic shall be generated by residential care facilities or a dwelling used for large group living between the hours of 10:00 p.m. and 6:00 a.m. in greater volumes than would normally be expected in a residential neighborhood.

f. No dwelling used for large group living shall be located within 1,200 feet of another dwelling used for group living, large or small, or a residential care facility, as measured from the nearest property line to the nearest property line.

g. No residential care facility may be located within 1,200 feet of another residential care facility, or a dwelling used for group living, large or small, as measured from the nearest property line to the nearest property line.

h. All other requirements of the R-3 district shall be met.

i. Any residential care facility or dwelling used for large group living must be licensed by the State of Missouri, if applicable.

j. In Districts R-1 and R-2, no more than 16 total residents shall be cared for at any one time.

k. In Districts R-1 and R-2, the applicant must demonstrate that the use will be consistent with the residential character of the neighborhood by presenting information regarding:

1. The number of residents.
2. The number of employees.
3. The number of additional vendors or service providers anticipated to visit the home each day, week, and month including but not limited to pharmacy deliveries, barbers, therapists, doctors, food deliveries, transportation of residents, and special activity providers.
4. The total number of vehicle trips to and from the home per day, including all of the above.

(10) Any such store or shop must not produce more noise, odor, dust, vibration, blasting or traffic than specifically permitted by these regulations and city policy.

(11) An off-street, unobstructed, paved parking area for the pick up and drop off of participants must be provided.

(12) a. At least 500 square feet for every five children, of contiguous, compact outside play area must be provided for outside recreation of children.

b. The play area must be fenced with a fence at least 48 inches in height.

c. An off-street, unobstructed, paved parking area for the pick up and drop off of participants must be provided.

d. Any body of water, natural or man-made, must be fenced and secured in accordance with the Raytown Code of Ordinances.

(13) a. In the industrial district, the entire operation shall be conducted within a fire-rated building or buildings, completely enclosed by walls and roof except that loading docks, service areas and outdoor storage areas may be located outside of a building or buildings, in compliance with the terms of article III, division 7 of this chapter.

b. The activity shall create no noise in excess of that of normal daily traffic measured at the lot line of the premises.

c. The activity shall create no vibration for a period longer than three minutes in any one hour that is perceptible at the lot line of the premises.

d. The activity shall create no dust, dirt, odor or obnoxious gasses, heat and unscreened glare that is perceptible at the lot line of the premises.

e. The activity shall be free from fire hazards and excessive industrial wastes.

f. Each industrial area shall have its own system of streets so that the traffic generated by any industrial use shall flow directly onto a street within the area zoned for industry, hence to empty on any street bordering such area.

(14) All residential units shall be located on floors levels above the first story unless otherwise approved as part of a development plan by the board of aldermen.

- (15) a. Adult entertainment establishments, adult book stores, adult motion picture theaters or adult mini-motion picture theaters may be located in a commercial district (NC or HC) or industrial district (M) but not within 500 feet of any residential district with an R in its designation (R-1, R-2 or R-3).
- b. No adult entertainment establishment, adult book store, adult motion picture theater or adult mini-motion picture theater shall be allowed to locate or expand within 1,000 feet of any other similar use.
- c. No adult entertainment establishment, adult book store, adult motion picture theater or adult mini-motion picture theater shall be allowed to locate or expand within 500 feet of any school, religious institution or public park within the city.
- d. The distance between any two adult entertainment establishments, adult book stores, adult motion picture theaters or adult mini-motion picture theaters shall be measured in a straight line, without regard to intervening structures, from the closest exterior structure wall of each business.
- e. The distance between any adult entertainment establishment, adult book store, adult motion picture theater or adult mini-motion picture theater and any religious institution, school, public park or any property zoned for residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment establishment, adult book store, adult motion picture theater or adult mini-motion picture theater to the closest property line of the religious institution, school, public park or the property zoned for residential use.
- f. No adult entertainment establishment, adult book store, adult motion picture theater or adult mini-motion picture theater shall be conducted in any manner that permits the observation of any material depicting, describing or relating to a specified sexual activities or a specified anatomical areas, as defined by these regulations, by display decoration, sign, show window or other opening from any exterior source.

(16) Reserved.

(17) The declaration and all details of covenants, by-laws and administrative provisions pertinent to the maintenance of all buildings, structures, land, and other physical facilities shall be reviewed and approved by the planning commission prior to the issuance of a building permit.

(18) a. Junk yard or salvage yard shall occupy a minimum lot size of ten acres.

b. All such uses shall be located at least 300 feet from a boundary line or 500 feet from a boundary line if the property adjoins land in districts Low Density Residential (R-1), Medium-Density Residential (R-2), High-Density Residential (R-3) and Elderly Housing Residential District (RE).

c. All such uses shall be completely surrounded on all sides by a fence or wall at least eight feet high. The fence or wall shall be of uniform height, uniform texture and color and shall be maintained so as to ensure maximum safety to the public, obscure the junk or salvage from normal view of the public and preserve the general welfare of the neighborhood. The fence or

wall shall be installed in such a manner as to retain all scrap, junk or other materials within the yard. No scrap, junk or other salvaged materials may be piled so as to exceed the height of this enclosing fence or wall.

d. No materials shall be loaded, unloaded, or otherwise placed either temporarily or permanently outside the fence or wall.

e. No hazardous or toxic materials shall be stored or handled in a junkyard or salvage yard unless they are located in such uses on a temporary basis not to exceed 90 days until other disposal can be arranged.

(19) a. The kennel shall occupy a minimum lot size of five acres.

b. No kennel building or runs shall be located nearer than 200 feet to any property line.

c. All kennel runs or open areas shall be screened completely from view around such areas or at the property lines to prevent the distraction or excitement of the animals.

d. All kennel runs shall be surrounded by a fence of at least eight feet in height.

e. The kennel shall have adequate measures to prevent odor, dust, noise or drainage from becoming objectionable to uses on other properties. No incineration of animal refuse shall be permitted.

f. All state licensing and operation requirements are met.

(20) Riding stable (private) shall not be located less than 100 feet from the front lot line or less than 30 feet from any side or rear lot line. On such lots, there shall not be kept more than one horse, pony or mule for each 40,000 square feet of lot area, provided however, there is a minimum lot size of two acres, and further provided, however, that when any such stable exists and/or animals as herein provided for are kept, the owner or keeper shall cause the premises to be kept and maintained so as to comply with all state, county and municipal sanitary and health regulations regarding same.

(21) No structure housing horses shall be located nearer than 500 feet to the boundary of any residential district with "R" in its title.

(22) Temporary uses. The following temporary uses of land are permitted in each district unless specifically restricted to particular districts and are subject to the regulations and time limits that follow and to the other applicable regulations of the district in which the use is permitted.

a. *Carnivals and circuses.* Permits for may be approved with conditions by the director of community development and public affairs. Such uses need not comply with the bulk or lot-size requirements, provided that structures or equipment that might block the view of operators of motor vehicles on the public streets shall not be located within 30 feet of the intersection of the curb line of any two streets.

b. *Christmas tree sales.* Allowed in any business or industrial district for a period not to exceed 45 days. Display of Christmas trees need not comply with the yard and setback requirements of

these regulations; provided that no trees shall be placed in such a manner as to obstruct the vision of traffic within 30 feet of the intersection of the curb line of any two streets.

c. *Garage sales, yard sales and rummage sales.* Periodic conduct of what is commonly called garage or yard or rummage sales that do not exceed a period of more than five days or on more than four occasions during any calendar year.

(23) The annual production of beer by a craft brewery shall not exceed six million barrels.

(24) The following additional criteria shall apply to all businesses classified by Municipal Code Section 10-573 as Tobacco or Vaping/E-cigarette Sales Stores:

a. Such uses shall not locate ~~or expand an existing operation~~ within:

1. 2,600 feet of any other property on which another smoke and tobacco or vaping (e-cigarette) store is located;
2. ~~1,000~~ 100 feet of any property legally used as a public park, school, or church.
3. 150 feet from a residential zone.

b. The separation distance shall be measured from the primary entrance of the smoke, tobacco, or vaping/e-cigarette store, and from or to the property line of the property containing the public park, school, church or residential property.

c. Separation distance provisions shall not apply to any smoke, tobacco, or vaping/e-cigarette store that can demonstrate that they were in operation at the location requested in the business license application prior to the effective date of the ordinance from which this article is derived. ~~and they have operated continuously under the same business ownership since that time.~~

(25) The following additional criteria shall apply to all businesses classified by Municipal Code Section 4-109 or 4-110 as Full Original Package or Malt Liquor Original Package Liquor Stores (~~Excludes stores with licenses in either category where total liquor sales are less than 20% of gross receipts~~):

a. Such uses shall not locate ~~or expand an existing operation~~ within:

1. Highway Commercial zone: 1,000 feet of any other property on which another package liquor store is located;
2. Neighborhood Commercial zone: 2,600 feet of any other property on which another package liquor store is located;
3. 100 feet of any property legally used as a public park, school, or church.
3. 150 feet from a residential zone.

b. The separation distance shall be measured from the nearest outer wall of the package liquor sales store, and from or to the property line of the property containing the public park, school, church or residential property.

c. Separation distance provisions shall not apply to any package liquor sales store that can demonstrate that they were in operation at the location requested in the business license application prior to the effective date of the ordinance from which this article is derived. ~~and they have operated continuously under the same business ownership since that time.~~

d. ~~Notwithstanding any other provision to the contrary, no use permit or business license shall be issued for a package liquor sales store where it is determined that the total number of such facilities will exceed a population density factor of one such establishment per 5,000 residents, or fraction thereof, based on the last decennial census.~~

(26) Convenience Stores shall meet the definition of such stores contained within Municipal Code Section 50-4. If such store does not meet the definition, then the use classification shall be the primary contributor to gross receipts of the business and shall meet all code requirements thereof.

(Ord. No. 5498-14, § 2A—C, 7-15-2014; Ord. No. 5579-17, §§ 1, 2(Exh. A), 9-5-2017; Ord. No. 5575-17, § 1, 5-2-2017)

USES	ZONING DISTRICTS																Conditions
	Residential Districts						Nonresidential Districts						Overlay Districts				
	R-1	R-2	R-3	MH	NC	HC	M	N	TS	FP	HO	P	CD	HP	AE		
Auditorium or Stadium							P		P				P				(13)
Auditoriums																	
Bakery, Retail					P	P			P								(10), (11)
Bed and breakfast homes with or without a related tearoom	C	C	C														
Boat Sales						C	C										
Camps								P					P				
Car Wash						C	C						P				(13)
Cemeteries, crematories and mausoleums	C	C	C	C	C	C	C	C									
Churches, chapels, mosques, synagogues, temples and other places of religious assembly	P	P	P	P	P	P	P						P			P	(3), (10), (11)
College or University							P						P				(13)

ZONING DISTRICTS																
USES	Residential Districts					Nonresidential Districts					Overlay Districts				Conditions	
	R-1	R-2	R-3	MH	NC	HC	M	N	TS	FP	HO	P	CD	HP		AE
Commercial and retail uses that are not permitted by district regulations					C	C	C	C								
Communications towers	C	C	C	C	C	C	C	C								(16)
Condominium dwelling containing more than two household condominium dwellings			C									P	P			(17)
Construction Sales and Service												P				(13)
Convenience Stores					P	P	P	P				P				(13),(26)
Craft Brewery					C	P	P									
Cultural Service												P				(13)
Dance halls, discotheques, and night clubs					C	C										
Day care center					P							P				(12)

ZONING DISTRICTS

USES	ZONING DISTRICTS													Conditions			
	Residential Districts					Nonresidential Districts					Overlay Districts						
	R-1	R-2	R-3	MH	NC	HC	M	N	TS	FP	HO	P	CD		HP	AE	
Dormitories and fraternity or sorority houses		C	C														
Drive-In Theater						P		P				P					(11)
Drive-through restaurants					P	P											
Dwelling, Large group living	C	C	P		P			P				P					(9)
Dwelling, Small group living	P	P	P					P				P					(2)
Exhibit hall					C		C										
Financial institutions					P	P											
Food/Bakery Product Manufacturing							P		P			P					
Fortune Tellers, palm readers, psychics, tarot card readers and similar uses						C											
Foster homes	P	P	P						P			P					
Fraternal club, service club, private club and/or tavern	C	C	C	C	C	C	C	C									
Golf course	P	P	P				P		P			P				P	(4), (13)

ZONING DISTRICTS

USES	ZONING DISTRICTS														Conditions		
	Residential Districts					Nonresidential Districts					Overlay Districts						
	R-1	R-2	R-3	MH	NC	HC	M	N	TS	FP	HO	P	CD	HP		AE	
Golf-driving, commercial or illuminated						C											
Government Uses, including but not limited to police station, fire station, emergency medical services	C	C	C	C	P	C	P	P				P				P	(13)
Group day care home					P			P				P				P	(12)
Group Home	C	C	C														
Health Club					P	P	P	P				P					(13)
Home occupations	P	P	P					P				P					(7)
Hospital																	
Hotel or motel						P	P	P				P				P	(11), (13)
Junk yards or salvage yards						P	P	P				P				P	(11), (13)
Kennels							C										(18)
Laundry							C	C									(19)
Laundry Service							P					P				P	(11)
Liquor Sales, Package					P	P						P				P	(13)
																	(25)

ZONING DISTRICTS

USES	ZONING DISTRICTS													Conditions			
	Residential Districts						Nonresidential Districts						Overlay Districts				
	R-1	R-2	R-3	MH	NC	HC	M	N	TS	FP	HO	P	CD		HP	AE	
Parks and Recreation- Public	P	P	P	P			P	P	P			P					(13)
Penal, reformatory or other correctional uses				C		C											
Pharmacy					P	P		P				P				P	(11)
Pitch and putt or miniature golf courses	P	P	P		C	C		P				P					
Pre-schools, nursery schools, children's day care or facilities of five persons but not more than ten persons	C	C	C														
Printing and Publishing					P	P	P									P	(13)
Private swimming pools	P	P	P					P				P					(6)

ZONING DISTRICTS

USES	ZONING DISTRICTS														Conditions		
	Residential Districts					Nonresidential Districts					Overlay Districts						
	R-1	R-2	R-3	MH	NC	HC	M	N	TS	FP	HO	P	CD	HP		AE	
Schools, private or parochial and non-profit	C	C	C	C	C	C	C	C									
Service stations					C	C											
Single-household dwellings	P	P	P					P		P		P					(1)
Tobacco or Vape/E-cigarette Product Sales					P	P											(24)
Studio, Television or Film							P	P				P					(14)
Swimming pools, public or commercial					C												
Tattoo parlors and body-piercing businesses					C	C											
Temporary Uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(22)
Transit Facility							P	P	P	P	P	P					(14)
Two-household condominium dwellings		P	P					P				P					(9), (15)
Two-household dwellings		P	P					P				P					(9), (15)

