

**ARTICLE 41**  
**STANDARDS FOR APPROVAL OF CONDITIONAL USES**

**41.01.00.00 INTENT**

It is the intent of the City Commission through the regulations of this Article to set forth standards for review, approval, approval with conditions, or disapproval of conditional uses. These standards are instituted to provide an opportunity to use a lot for an activity which, under usual circumstances, could be detrimental to other permitted land uses and cannot normally be permitted within the same district, but which can be permitted under circumstances particular to the proposed location and subject to conditions which provide protection to adjacent land uses and the public welfare. These standards are adopted for the City Commission to follow in arriving at any conditional use decision.

**41.02.00.00 INTERPRETATION OF CONDITIONAL USE STANDARDS**

Uses set forth in this code as conditional uses shall be deemed to be adverse to the public interest and welfare except in specific instances when the City Commission finds that all land development code standards for approval of such uses will be met. In those instances when the City Commission finds that all land development code standards for approval of a particular conditional use at a specific location have been met, and the public welfare is adequately protected, then the City Commission shall approve the use.

**41.03.00.00 GENERAL CONDITIONAL USE STANDARDS**

Prior to approving any conditional use, the City Commission shall find, based on competent and substantial evidence, that the use exactly as proposed at the location where proposed, will be in conformity with the city's comprehensive plan and in harmony with existing uses and uses most likely to occur in the immediate area, and will provide for the adequate protection of the public welfare. The proposed use shall not result in premature development nor shall it substantially reduce the public benefit that would result from use of the same site for a use permitted by right.

**41.04.00.00 SPECIFIC STANDARDS FOR ALL CONDITIONAL USES**

Prior to approving any conditional use the City Commission shall find, based on competent and substantial evidence, that the proposed use will not reduce the level of service or result in a significantly greater amount of through traffic on local streets than would result from development of a use permitted by right or otherwise be detrimental to the public welfare. The proposed use will be appropriately located with respect to the thoroughfare system and in relation to water lines, sanitary sewers, storm sewers, surface drainage systems and other utility systems that it will result in neither extension nor enlargement nor any other alteration of such systems in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development of a use permitted by right.

**41.04.01.00 MUNICIPAL POLICE AND FIRE SERVICES NOT IMPAIRED**

The proposed use will not place a demand on municipal police or fire protection services beyond the capacity of those services, except that the proposed use may place a demand on municipal police or fire protection services that does not exceed the demand likely to result from a development permitted by right.

**ARTICLE 41**  
**STANDARDS FOR APPROVAL OF CONDITIONAL USES**

**41.05.00.00 STANDARDS FOR NON-RESIDENTIAL CONDITIONAL USES IN RESIDENTIAL DISTRICTS**

Prior to approving any non-residential conditional use in any residential area and prior to approving any more intensive residential conditional use in a less intensive residential area, the City Commission shall find, based on competent and substantial evidence, that the size and location of the conditional use, along with the nature and intensity of the operations involved, will neither be hazardous nor inconvenient to the predominantly residential character of the area in which it is to be located, nor the long range development of the district for the residential purposes intended.

**41.05.01.00 ISOLATION OF SMALL RESIDENTIAL AREAS NOT A RESULT**

The location of the conditional use will not result in a small existing or planned residential area being isolated from other residential development by being completely or largely surrounded by arterial streets and non-residential land uses.

**41.05.02.00 RESIDENTIAL DESIGN CHARACTER**

The design of buildings for non-residential conditional uses in residential districts shall be compatible with that of residential structures in the same general area or neighborhood. Such a finding shall be based on a consideration of the building mass, height, materials, window arrangement, yards and any other pertinent considerations.

**41.06.00.00 SPECIFIC STANDARDS FOR NEIGHBORHOOD CONVENIENCE CENTERS**

Prior to approving a conditional use for a neighborhood convenience center, the City Commission shall find, based on competent and substantial evidence, that the following standards have been satisfied in addition to those contained in Section 41.05.00.00.

**41.06.01.00 PURPOSE AND INTENT**

Most residential property located in and around the central city was originally developed in the pattern of "traditional neighborhoods". Typically platted in a grid street pattern with rear service alleys, these neighborhoods were characterized by the integration of residential with small scale commercial land uses which provided many of the convenience needs of the neighborhood, often within walking distance. In an effort to encourage the preservation and redevelopment of these older neighborhoods, the NCC is intended to provide a return to traditional neighborhood planning and development.

In order to facilitate this approach, specific guidelines and standards have been developed for commercial activity occurring in medium and high density residential land use designations. To further emphasize the neighborhood orientation of these commercial activities, the NCC is proposed as a Conditional Use in single-family, two-family, multiple-family residential and office zoning districts.

A NCC shall be allowable only on a collector street. No such convenience center shall be located closer than 1/3 mile to any existing activity center or any other NCC, including those located outside the city limits.

**ARTICLE 41**  
**STANDARDS FOR APPROVAL OF CONDITIONAL USES**

41.06.02.00 USE RESTRICTIONS

41.06.02.01 Permitted Principal Uses And Structures  
Amend.9

- a. All uses permitted in the underlying residential or office zoning district in accordance with the development regulations contained in those zoning districts;
- b. Retail outlets for sale of antiques, food, clothing, toys, sundries and notions, books and stationary, leather goods, luggage, jewelry, camera or photographic supplies, florists, gift shops, drugs, arts and crafts and similar products (retail outlets permitted herein shall not be open for business between the hours of 12:00 midnight and 6:00 a.m.);
- c. Service establishments such as barber or beauty shops, shoe repair, interior decorators, photographic studios, dance or music studios, self-service laundries or dry cleaners, laundry or dry cleaning pickup stations, tailors and dressmakers, duplication and copying services and similar uses;
- d. Child and adult day care centers;
- e. Restaurants, bakeshops (but not wholesale bakeries) and delicatessens; and
- f. Retail establishments manufacturing goods for sale only at retail on the premises, such activities being accessory and subordinate to the retail activities.

41.06.02.02 Permitted Accessory Uses And Structures

Permitted accessory uses and structures in the NCC shall be uses and structures which:

- a. Are customarily associated with and clearly incidental and subordinate to permitted principal uses and structures;
- b. Are located on the same lot as the permitted use or structure, or on a contiguous lot under common ownership; and
- c. Do not involve operations or structures not in keeping with the character of the district.

41.06.02.03 Prohibited Uses And Structures

- a. Manufacturing activities, except as specifically permitted;
- b. Warehousing or storage, except as a permitted accessory use in connection with a permitted principal use;
- c. Outdoor display of goods and/or services, and outdoor vending machines;
- d. The sale of gasoline at fuel pumps;
- e. Pawn shops;
- f. Any drive-thru facilities;
- g. New residential uses designed as part of the first floor store front; or
- h. The sale of alcoholic beverages as a free standing or principal use. Alcoholic beverages may be served in conjunction with a restaurant permitted as a principal use.

41.06.03.00 DEVELOPMENT REGULATIONS

Minimum lot area .....	12,000 square feet
Typical/maximum lot area .....	0.5/1.5 acres
Maximum building height .....	35 feet
Typical/maximum lot coverage .....	25/60 percent
Minimum/maximum front setbacks .....	0 - 10 feet*

\* Larger setbacks up to 20 feet may be permitted for patios, balconies, streetside outdoor cafes, etc.

**ARTICLE 41**  
**STANDARDS FOR APPROVAL OF CONDITIONAL USES**

41.06.04.00      **DESIGN GUIDELINES**

41.06.04.01      **Building Facades**

Building facades should be varied and articulated to provide visual interest to pedestrians. Street level windows and building entrance(s) shall orient to streets. (Additional entrances from the interior of a block or parking lots are also permitted.) In no case shall the facade of a building consist of an unarticulated blank wall or an unbroken series of garage doors.

41.06.04.02      **Signage**

Wall signs are permitted in accordance with the standard sign ordinance provisions relating to office commercial zoning districts. Signs may also be attached to the bottom horizontal surface of a marquee in accordance with the general provisions section of the sign ordinance. Prime Identification signs are prohibited in a NCC.

41.06.04.03      **Parking**

Off-street parking shall be located only at the rear or on the side of a NCC. For corner lots, parking shall not be allowed in the area extending from the property line to a line which is parallel to the front facade of the principal structures on the abutting lots, not to exceed twenty-five (25) feet in depth (see Figure 41.01).

**41.07.00.00      CONDITIONS AND SAFEGUARDS**

Prior to granting approval for a use subject to special conditions, the City Commission may impose any additional conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the approval as in its judgment may be reasonably necessary to prevent the use from being detrimental to other permitted land uses adjacent to or in the surrounding area of the conditional use, and for the protection of the public interest and welfare. Conditions and requirements stated as part of the approval of a conditional use shall be a continuing obligation of holders of approval. The Zoning Administrator shall make periodic investigations of developments authorized as conditional uses to determine compliance with all requirements.

**41.08.00.00      APPROVAL FOR BENEFIT OF APPLICANT ONLY**

Amend.10

A conditional use shall be approved for the benefit of the applicant only. The character or benefit of the conditional use shall not be changed or transferred without a new conditional use approval or without City Commission approval by resolution.

**41.09.00.00      CHANGES TO CONDITIONAL USE**

Amend.10

Proposed changes to an approved conditional use, including changes to conditions, site development plans or any other provision incorporated as part of the ordinance enacting a conditional use for a particular parcel or parcels, shall be reviewed by the Zoning Administrator to determine whether the change is a major or minor modification from previously approved plans or conditions. Any modification of an approved conditional use which involves a change to a more intensive use shall be considered a major modification. Other modifications may be declared major modifications if the Zoning Administrator determines they deviate substantially from the approved conditional use. Requests for major modifications shall follow the same procedure set forth herein for conditional use approval.

**ARTICLE 41**  
**STANDARDS FOR APPROVAL OF CONDITIONAL USES**

Any proposed change to a conditional use which does not constitute a major modification shall be considered a minor modification. At the discretion of the Zoning Administrator, minor modifications may be referred to the Planning and Zoning Board with a recommendation or, if the Zoning Administrator deems the proposed change to be de minimus, he may make the minor modification administratively.

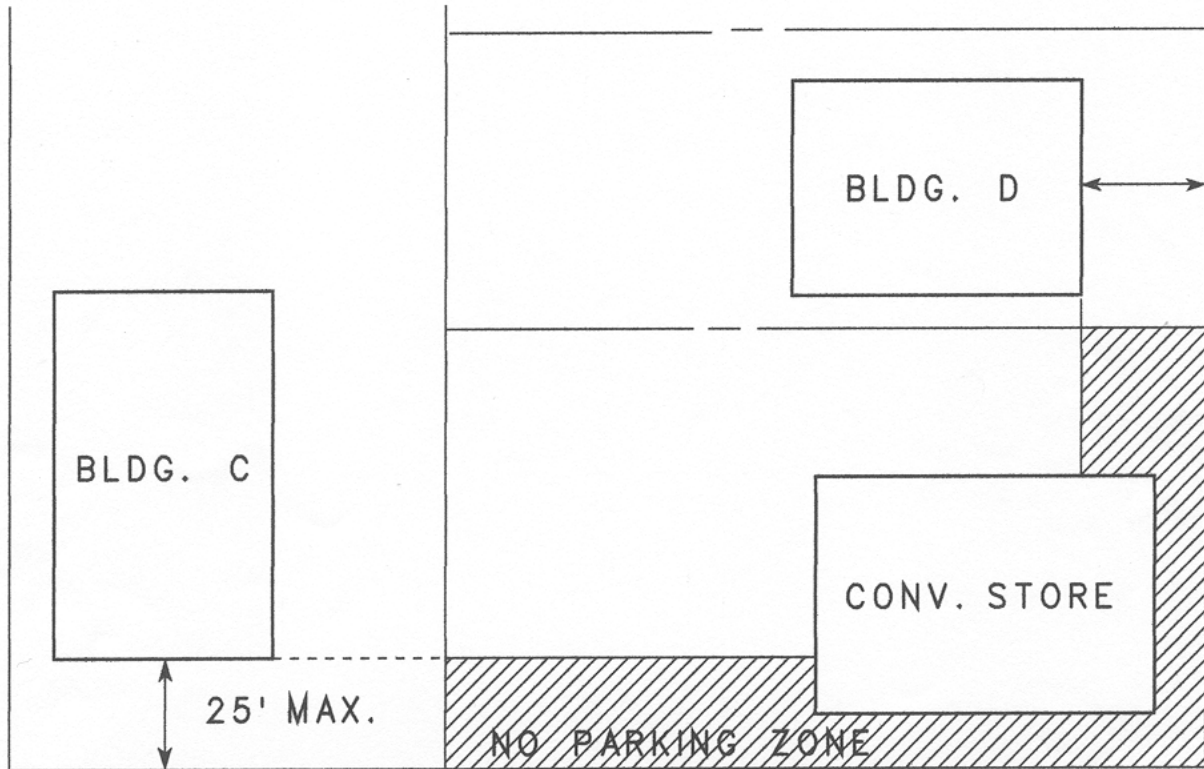
Action by the Planning & Zoning Board or Zoning Administrator in such cases shall be final. Requests for minor modifications shall be made in writing and shall indicate the effect of the proposed changes, the reasons why the changes are necessary, and, if applicable, shall include a revised site development plan.

41.09.01.00  
Amend.10

**REPEAL OR MODIFICATION OF CONDITIONAL USE IF CONSTRUCTION NOT COMMENCED**

Failure to commence construction within five (5) years of the effective date of the adoption of a conditional use shall be grounds for the city, at its discretion, to repeal the conditional use, modify the conditional use or retain the conditional use in its current form.

ARTICLE 41  
STANDARDS FOR APPROVAL OF CONDITIONAL USES



CORNER LOT

FRONT AND STREET SIDE SETBACKS ..... 5 FEET  
NO PARKING IN AREA DEFINED BY PROPERTY LINE AND LINE  
PARALLEL TO FRONT FACADE OF STRUCTURES ON ADJACENT  
LOTS.

NEIGHBORHOOD CONVENIENCE CENTER

Figure 41.01