

Sec. 105-1-6. - Automobile Off-street parking and loading.

(a) ~~Off-street parking. Except as provided in this section, no application for a building permit or certificate of occupancy in any zone shall be approved unless there is included with the plan for such a building, improvement or use a plot plan showing the required open space designated as being reserved for off-street parking purposes to be provided in connection with such a building, improvement or use in accordance with this section. No certificate of occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the attached plan. Such Off-street parking for each building, improvement or use shall be provided on the basis of the following minimum requirements:~~

(1) ~~Dwellings.~~

~~a. Dwellings, including single-family, two-family and multifamily dwellings with standard garages.~~

~~1. A minimum of two off-street parking spaces for each dwelling unit, at least one of which is exterior. Driveways or parking aprons must have an unobstructed length of at least 20 feet between the garage door and any sidewalk in order to be counted as a required parking space.~~

~~2. If there is insufficient space to park at least one guest vehicle per unit along the curb in front of the property, sufficient additional off-street parking spaces must be provided in order to provide at least one guest space per unit.~~

~~b. Multi-family structures with common underground or ground floor parking garages and separate storage areas for each dwelling unit.~~

~~1. Each unit having a living area containing two or more bedrooms shall have at least two parking spaces.~~

~~2. One bedroom or efficiency units shall have at least one parking space.~~

~~3. The complex must provide at least one guest parking space per each two dwelling units. Available parking along the street in front of the complex may be counted when computing guest parking.~~

~~c. Exceptions to the requirements contained in a. and b. above may be granted for projects catering to a designated group that does not own~~

~~private vehicles or use privately owned vehicles for transportation that require parking spaces on-site. Alternative site configurations involving provision of vehicle loading areas and parking areas for busses or other group transport vehicles may be considered. The applicant must present written documentation justifying the exception and the building official may grant the exception in writing after consulting with the city planner except that for an efficiency apartment of less than 400 square feet, only one off-street parking space shall be required if the parking space is exterior. Fifty percent of the required minimum parking spaces must be exterior parking.~~

- (2) Hotels. Hotels, ~~including clubs,~~ require one space for each ~~two~~ guest rooms plus one space for each two employees per shift. If, in addition to sleeping rooms, patrons or residents are provided with assembly halls, bars, restaurants, nightclubs, retail shops, service establishments or other businesses, additional off-street parking spaces will be required for such other uses in accordance with the regulations of this section ~~for such uses~~.
- (3) Tourist homes, motels, trailer courts. Tourist homes, motels and trailer courts require one space for each guest room, cabin or trailer parking space. Off-street parking for auxiliary uses in the same building or on the same lot shall be provided in accordance with the regulations set forth in this section for such uses. For tourist homes there must be provided in addition to off-street parking spaces for guests, one additional space for each family permanently residing in the building.
- (4) Hospitals. Hospitals, including sanitariums, ~~orphanages,~~ nursing homes, treatment facilities, and similar institutions require one space for each ~~two~~ four patient beds, ~~plus one additional space for each staff doctor on duty per shift and, plus one additional space for each two regular employees per shift, including nurses.~~
- (5) Restaurants. Restaurants, including bars, taverns, nightclubs, lunch counters, diners and all other similar dining or drinking establishments require one space for each four seats provided for patron use and one parking space for each employee per shift.
- (6) Theaters. Theaters require one space for each five seats provided for patron use plus one space for each employee per shift.
- (7) Places of public assembly. Places of public assembly, including private clubs, lodges, ~~and~~ fraternal buildings not providing overnight accommodations, assembly halls, exhibition halls, convention halls, auditoriums, skating rinks, dancehalls, bowling alleys, sports arenas, stadiums, gymnasiums, amusement

parks, racetracks, fairgrounds, circus grounds, funeral homes, and mortuaries, community centers, libraries, museums and all other similar places of relatively infrequent public assembly require one space for each ten seats provided for patron use ~~or~~, one space for each 400 square feet of gross floor area used or intended to be used for service to the public as customers, patrons, or clients, whichever requires the greater number of parking spaces plus one space for each employee per shift.

- (8) Medical clinics. Medical clinics, including offices of doctors, dentists and ~~drugless physicians~~other licensed medical professionals, require three spaces for each ~~doctor~~primary medical professional using the office or clinic, plus one additional space for each ~~two~~medical assistant or regular employee per shift, including nurses.
- (9) Retail establishments. Retail establishments, including personal service shops ~~and~~, equipment or repair shops, ~~in a CA or CB Commercial District,~~ require one space for each 400 square feet of floor-patron access area ~~on the ground floor,~~ plus one space for each 400 square feet of floor area in a basement of any story above the ground floor and one space for each 800 square feet of service or employee area.
- (10) Office buildings. Office buildings, including commercial, governmental and professional buildings, except as otherwise provided for in this section, require one space for each 400 square feet of floor area.
- (11) Wholesale, manufacturing and industrial plants. Wholesale, manufacturing and industrial plants, including warehouses and storage buildings and yards, public utility buildings, contractor equipment and lumber yards, research laboratories, business service establishments, such as blueprinting, printing and engraving, soft drink bottling establishments, fabricating plants, and all other structures devoted to similar mercantile or industrial pursuits, require one space for each ~~two~~employees per shift, plus sufficient space to park all company -owned or -leased vehicles, including passenger automobiles, trucks, trailers, construction equipment and similar ~~company-operated motor~~ vehicles.
- (12) Terminal facilities. Terminal facilities, including airports, railroad passenger, and freight stations, bus depots, truck terminals and all other similar personal or material terminal facilities, require off-street parking spaces in an amount determined by the board of adjustment to be adequate to serve the public as customers, patrons, and visitors, plus one space ~~to provide one off-street parking space~~ for each ~~two~~regular employees per shift and, plus space ~~to provide off-street parking~~ for all owned, leased or operated commercial vehicles, buses, construction equipment and similar ~~motor~~ vehicles.

(13) Schools.

~~a. Schools, including Pre-schools, colleges, elementary schools, and junior and senior middle schools high schools, including public, private and parochial schools, require one space for each two staff members or employees, plus one space for each classroom and, plus additional spaces for any places of public assembly that are used during the school day in accordance with the requirements set forth in this section for such uses.~~

~~b. High schools and colleges require one space for each staff member or employee, one space for each classroom, one space for each five enrolled students per class period and additional spaces for any places of public assembly that are used during the school day in accordance with the requirements set forth in this section.~~

(14) Correctional facilities. Correctional facilities and similar institutions require one space for each ~~two regular~~ employees per shift, plus one additional space for each ~~four-eight~~ inmates.

(b) Off-street loading. ~~Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial building or use shall be approved unless there is included with the plan for such building, improvement or use, a plot plan showing the required space or structural design for off-street loading purposes to be provided in connection with such building, improvement or use, in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the approved plan. Such~~ Off-street loading space shall be provided for each building, improvement or use in accordance with the following minimum requirements:

(1) Each department store, freight terminal ~~or railroad yard, hospital or sanitarium~~, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment which has an aggregate gross floor area of 25,000 square feet or more, arranged, intended or designed for such use, shall provide off-street truck loading or unloading berths in accordance with the following table:

Square Feet of Aggregate Gross Floor Area Devoted to Such Use	Required Number of Berths
25,000 but less than 40,000	1
40,000 but less than 100,000	2
100,000 but less than 160,000	3
160,000 but less than 240,000	4

240,000 up to and including 321,000	5
For each additional 90,000	1 additional

- (2) Each multifamily dwelling having ten ~~or more~~ dwelling units shall provide: ~~one off-street loading berth for ten up to and including 30 dwelling units, plus one additional off-street loading berth~~ for each ~~additional~~ 30 dwelling units.
- (3) Each auditorium, convention hall, exhibition hall, funeral home, hotel, office building, restaurant, sports arena, hospital or welfare institution which has an aggregate gross floor area of 50,000 square feet or more arranged, intended or designed for such use shall provide one off-street loading berth for ~~50,000 square feet~~ up to and including 250,000 square feet and one additional berth for each additional 200,000 square feet of floor space.
- (c) Uses not specifically mentioned. For each use not specifically mentioned in this section, the requirements for off-street parking and off-street loading facilities for a use ~~which is so mentioned and to which said use is determined to be~~ similar ~~in function~~, shall apply. In such case, either the building ~~inspector official~~ or the applicant for the certificate of occupancy or building permit may apply to the ~~board of adjustment~~ city planner for an interpretation of the provision of this chapter for such off-street parking and off-street loading requirements ~~and the board of adjustment shall render a decision in writing in the manner provided for in this chapter for such action.~~
- (d) Continuing character of obligation. The schedule or requirements for off-street parking space and off-street loading space shall be a continuing obligation of the owner ~~or of~~ the real estate on which any such structure is located, as long as the ~~structure is in existence, and its~~ use requiring vehicle parking or vehicle loading facilities continues. ~~It is unlawful for an owner of any building affected by this section to discontinue, change or dispense with, or cause the discontinuance or change of, the required vehicle parking or loading space apart from the discontinuance, sale or transfer of such structure without establishing alternative vehicle parking or loading space which meets the requirements of, and is in compliance with, this section. It is unlawful for any firm or corporation to use such building without acquiring such land or other suitable land for vehicle parking or loading space which meets with the requirements of and is in compliance with this chapter. Any change to the required parking or loading facilities must be approved in writing by the chief building official. The chief building official may refer the request to the planning and zoning commission for review and recommendation. The review and recommendation by the planning and zoning commission will be treated the same as a variance request.~~
- (e) Fractional measurements. When units or measurements determining ~~a the~~ number of required off-street parking and off-street loading spaces result in the requirement of a

fractional space, any fraction up to and including one-fourth shall be disregarded, and fractions over one-fourth shall require one off-street parking or off-street loading space.

- (f) Location of required parking and loading facilities. The off-street parking facilities required by this section shall be on the same lot or parcel of land as the structure they are intended to serve; ~~provided, however, that when practical difficulties, as determined by the board of adjustment, prevent the establishment of such facilities upon the same lot or parcel, they shall be furnished on private property~~ within 400 feet of the premises to which they are appurtenant. The off-street loading facilities required by this section shall, in all cases, be on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this chapter.
- (g) Plan of required off-street parking or loading area. ~~For the purpose of converting parking or loading spaces into the required parking or loading area, P~~ plans must be submitted to the building ~~inspector official~~ to show how the required parking or loading space shall be arranged ~~in the area supplied for that purpose~~ and to indicate sufficient space for parking maneuvers, as well as adequate ingress and egress to the parking or loading area ~~for emergency vehicles~~. For each parking space not under roof, there shall be provided 200 square feet in addition to all lanes, alleys, aisles and drives necessary for safe and adequate parking maneuvering. For each off-street loading space required by this section, there shall be provided space clear and free of all obstruction, at least ten feet in width, ~~50-75~~ feet in length and 14 feet in height. Off-street parking and off-street loading space shall be provided with methods of ingress and egress such that it will be unnecessary for trucks or tractor trailer combinations to back into them from a street or out of them into a street.
- (h) Use of required off-street parking by another building. No part of an off-street parking area required for any building or use ~~d~~ for the purpose of complying with the provisions of this section shall be included as a part of an off-street parking area similarly required for another building or use unless the type of structure indicates that the periods of usage of such structure will not be simultaneous with each other, as determined by the ~~board of adjustment~~ city planner.
- (i) Maintenance of public off-street parking places provided. All off-street parking facilities for the use of the public, required pursuant to the provisions of this section, shall be paved, drained, lighted and periodically maintained by the owner in accordance with specifications of the city engineer; ~~and~~ S such facilities shall be arranged for convenient access and safety of pedestrians and vehicles. No open area in an off-street parking area shall be encroached upon by buildings, storage, or any other use; nor shall the number of parking spaces be reduced except upon the approval of the ~~board of adjustment~~ planning and zoning commission and then only after proof that, by reason of diminution in floor area, seating capacity, number of employees, or change in other

factors controlling the regulation of the number of parking spaces, the proposed reduction is reasonable and consistent with the intent of this section.

- (j) Collective action relative to off-street parking and loading. Nothing in this chapter shall be construed to prevent the joint use of off-street parking or off-street loading space for two or more buildings or uses if the total of such space, when used together, shall not be less than the sum of the requirements of the various individual uses computed separately in accordance with this section.
- (k) Mixed uses. In the case of mixed uses, the total requirements for off-street parking and off-street loading space shall be the sum of the requirements of the various uses computed separately as specified in subsections (a) and (b) of this section, and the off-street parking and off-street loading space for one use shall not be considered as providing the required off-street parking or off-street loading space for any other use.
- (l) Nonconforming uses. In the case of nonconforming uses, where major repairs, substantial alterations, or extensions are made, no such major repairs, substantial alterations or extensions shall be permitted unless and until the off-street parking and off-street loading facilities ~~space~~ requirements of this section, so far as they apply to the use to which such building is devoted, shall be fully provided for.

Sec. 105-1-7. - Sidewalks.

- (a) Duty of developer. Unless other written arrangements have been made with the city, it shall be the duty of developers of new subdivisions to construct or arrange for the construction of all required sidewalks and multi-use paths within the limits of the subdivision and within any areas outside the subdivision so designated during the review and approval process prior to the sale of lots within the subdivision.
- (b) Property owners in established subdivisions. Property owners or occupants of lots in established subdivisions shall construct a sidewalk within the right-of-way adjacent to their property unless the city engineer has waived in writing the requirement for a sidewalk.
- (c) Construction of sidewalk prior to occupancy permit. Unless the city engineer has granted a waiver in writing for good cause to allow a specified time delay in installing a sidewalk or specified in writing that a sidewalk is not required, the sidewalk shall be completed to the satisfaction of the city engineer prior to issuance of an occupancy permit.

Sec. 105-1-8. - ~~Delivery of goods in public places regulated.~~

~~Any person may place and leave, for a period not to exceed one hour, on an area three feet of the outer edge of the sidewalk, in front of his store or in the alley in the rear of his premises or building, any goods, wares or merchandise which he shall be in the act of receiving~~

~~or delivering, provided that such goods shall not be packed or unpacked on the sidewalk or street. However, this section shall not be construed as to allow the displaying of goods contained in boxes, crates or barrels or any article or thing unsightly or dangerous to pedestrians or considered a nuisance.~~

Sec. 105-1-9. — Building permits and approval of plans.

The building official shall in no case grant any permit for the construction, moving or alteration of any building if the building, as proposed to be constructed, moved or altered, would be in violation of any of the provisions of this chapter. The building official shall consult with the city engineer and/or city planner to determine compliance with this chapter. All applications for building permits shall be accompanied by plans ~~in duplicate~~, drawn to scale, showing the actual shape and dimensions of the plot to be built upon, the exact sizes and locations on the plot of the buildings and accessory buildings then existing, ~~and~~ the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of such building or part of a building, the number of families or housekeeping units the building is designed to accommodate, the location of required parking and loading facilities, utility service connections and such other information with regard to the plot and neighboring plots as may be necessary to determine and provide for the enforcement of this chapter. Plans may be submitted electronically with approval of the building official. One copy of such plans shall be returned to the owner with appropriate documentation indicating that ~~when~~ the plans ~~shall~~ have been approved by the building official.

Sec. 105-1-109. - Certificate of occupancy.

It is unlawful to use or permit the use of any building or premises or part, hereafter created, erected, changed, converted, moved, altered or enlarged wholly, or partly in its use or structure, until a certificate of occupancy shall have been issued therefor by the building official. Such certificate shall show that such building or premises or part and the proposed use thereof are in conformity with the provisions of this ~~chapter~~code.

Sec. 105-1-104. - Fees.

The board of city commissioners shall establish, by resolution, ~~filing fees for certificates of occupancy, variances, special use permits, large-scale development permits, amendments or changes of districts, appeals to the board of adjustment~~processing applications or other actions or proceedings conducted under this chapter. Before accepting for ~~filing~~processing any application for an activity for which a fee has been established, the ~~building official or other~~ designated city official shall charge and collect the required fees. No fee shall be required for any appeal filed by an agency of government. ~~All fees established under this section are in addition to any fees for building permits, business licenses or any other fees or charges required under other city ordinances.~~

Sec. 105-1-112. - Board of Adjustment.

- (a) The board of city commissioners ~~shall exercise the powers and duties of~~ may create a board of adjustment as authorized by N.D.C.C. §40-47-01 and 40-47-07 - 11 ~~or may perform the functions themselves.~~ The board may, at its discretion, refer requests to the planning and zoning commission for review and recommendation prior to taking action.
- (b) The board of city commissioners acting as the board of adjustment ~~is an administrative board whose powers and duties are limited generally by state laws and particularly by the powers and duties set forth in this section. The board of adjustment shall not have the power to amend this chapter on zoning, nor to permit nor prohibit any actions which accomplish an amendment of this chapter on zoning, nor to permit any action nor fail to prohibit any action which would violate this chapter. However, it is the declared intent of this section that any actions taken by the board of adjustment, in full compliance with the provisions of this section, shall be deemed to be administrative actions and shall not be interpreted as unauthorized amendments to the chapter. In addition to the powers provided by law, the board of adjustment~~ shall have the following powers and duties:
- (1) Variances.
- a. On appeal from an order, requirement, decision or determination made by an administrative official, the board of adjustment may vary or adjust the strict application of any of the requirements of this chapter in the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the chapter would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, ~~but in no other case.~~
- b. No adjustment in the strict application of any provisions of this chapter shall be granted by the board of adjustment unless it finds that:
1. There are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter, or not;
 2. For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict

application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant;

3. The grant of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

~~(2)c. Conditional variance.~~ In granting any variance, the board of adjustment shall prescribe any conditions applying thereto that it may deem necessary or desirable to carry out the general purposes of this chapter or preserve the neighborhood or general welfare from injury.

~~(32) Allocation of unlisted uses.~~ Upon application of a property owner, or upon a request of the building official or other administrative official or of any official, agency or board of the city, or on its own initiative, the board of adjustment shall add to any use group established by section 105-1-4, any other similar use which conforms to the conditions set forth in the special finding required and listed in this subsection:

- a. ~~Such use is not listed in any other use group, nor is it listed individually as a permitted use.~~
- b. ~~Such use is more appropriate in the use group to which it is added than in any other use group.~~
- c. ~~Such use conforms to the basic characteristics of the use group to which it is added as set forth in the general description of the use group.~~
- d. ~~Such use does not adversely affect the character of any of the districts in which the use group to which it is added is permitted.~~
- e. ~~Such use is not likely to create any more traffic than the other uses listed in the use group to which it is added, nor does it create any more offensive noise, vibration, dust, heat, smoke, odor, glare, health or safety hazard or other objectionable influence than the minimum amount normally resulting from the other uses listed in the use group to which it is added.~~
- f. ~~When any use has been added to any use group in accordance with the procedure set forth in this section, such use shall thereafter be deemed~~

~~to be permitted in any district in which such use group is permitted, and to be prohibited from any district in which such use group is prohibited. Such use shall be added to the use group in the published text of this chapter at the first convenient opportunity, with a notation indicating that the addition was made in accordance with this section.~~

~~(4)~~ **(4)**—Renewal of certificate of occupancy for nonconforming use. The board of adjustment shall have the power to renew a certificate of occupancy for nonconforming use in accordance with the provisions of section 105-1-1. In granting such renewal, the board of adjustment shall determine that the temporary continuation will not be injurious to the neighborhood, nor to the public welfare, and that there are unusual circumstances or conditions which would create an unnecessary hardship on the applicant for extension if such extension were refused. The board of adjustment may refuse to grant an extension to the certificate of occupancy for a nonconforming use if application for such extension is received by the board of adjustment less than 15 days prior to the expiration of the original certificate of occupancy.

~~(5)~~ **(5)**—~~Renewal of automatically revoked building permit. Upon appeal by any person holding a building permit automatically revoked by the provisions of this Code, the board of adjustment shall hear and determine whether or not such revoked building permit will be renewed. The board of adjustment shall authorize such renewal only where it specifically finds:~~

~~a. Construction of the building has, in fact, been started.~~

~~b. Substantial expenditures have been made for such construction.~~

~~c. The plans for the building and actual construction of the building are in full compliance with the zoning ordinances in effect at the date of issuance of the building permit and in full compliance with the building code and any other city ordinances.~~

(63) Special uses. The board of adjustment shall, on application, hear a request for a special use in accordance with the provisions of section 105-1-5. The board of adjustment shall grant a permit approval for such special use if and only if it finds that such use is in full conformity with all standards relating thereto as specified in section 105-1-5, and with any other conditions, regulations and standards specified elsewhere in this chapter and applicable to said special use.

~~(74)~~ **(74)** ~~Off-street parking. The board of adjustment shall, upon application, hear and decide any question relating to the decrease of required off-street parking or off-street loading spaces, as set forth in section 105-1-6.~~

- ~~(8) Airport zoning. The board of adjustment shall have all powers and duties granted to it by this chapter relating to airport zoning regulation.~~
- (9) Recommendations to planning and zoning commission. The board of adjustment is authorized to recommend to the city planning and zoning commission, for study or action, any changes or amendments to the text or district zoning maps that the board finds desirable. The planning and zoning commission shall consider such recommendations and may prepare appropriate amendments for the consideration of the board of city commissioners to carry out said recommendation.
- ~~(10) Special permit for large-scale development. The board of adjustment shall hear and pass upon an application for a special permit for a large-scale development in accordance with the provisions of section 105-4-5.~~
- (115) Miscellaneous powers and duties. The board of adjustment shall have such other powers and duties as may be authorized by this chapter, ~~or any amendment thereto.~~
- (126) Rules. The board of adjustment is authorized to establish such rules of procedure, not in conflict with any provisions of the laws of this state, this chapter, or any other ordinance of the city, as it may deem necessary to carry out the provisions of this chapter.

Sec. 105-1-~~123~~. - Amendments.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the board of city commissioners may amend, supplement or change the regulations in the zoning ordinance, or the zoning boundaries or classification of property on the zoning map, as set forth in this chapter.

- (a) Initiation of amendments. A proposed amendment may be initiated by the board of city commissioners upon its own motion, or upon receipt of a request therefor from the planning and zoning commission, or upon receipt of a petition therefor from any interested person or their agents.
- (b) Report by planning and zoning commission; public hearing. The board shall require a report from the planning and zoning commission on a proposed amendment before taking final action thereon. The planning and zoning commission shall ~~thereupon~~ make a tentative report and hold a public hearing thereon with notice the same as required for a public hearing by the board of city commissioners, before submitting its final report. Such final report shall be submitted within 90 days of the referral of the proposed amendment to the planning and zoning commission unless the board is agreeable to an extension of time.

- (c) Action by board of city commissioners; public hearing. After ~~the~~ receipt of the required final report on any amendment from the planning and zoning commission, or in the event of the failure of the planning and zoning commission to so report ~~within 90 days following the time of referral of the proposed amendment to the planning and zoning commission~~, the board shall hold a public hearing, after which the board may make a final determination on the proposed amendment. A hearing shall be granted to any person interested at the time and place specified.