

ORDINANCE NO. 5828

AN ORDINANCE AMENDING  
ZONING ORDINANCE PROVISIONS

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by underline; deletions by ~~strikeout~~):

Section 1. That Section 28.5.010 (Table 5-1) of the Zoning Ordinance is hereby amended to read as follows:

See Table 5-1



USE CATEGORY	R-1	R-2	R-3	R-4	R-5	R-5A	R-6	B-1	B-2	B-3	DC	DB	DT	O-R	O-R-M	M-1	M-2	INP-1	INP-2	Supplemental Regulations	
Subcategory Specific use (See Sec. 28.05.020)																					
	P = use permitted as of right   S = special use approval required   - = not allowed																				
Boarding or shelter	-	-	-	-	-	-	-	-	S	P	-	-	-	-	-	P	P	-	-		
Grooming	-	-	-	-	-	-	-	P	P	P	P	P	P[18]	-	-	P	P	-	-		
Veterinary care	-	-	-	-	-	-	-	-	P	P	S	S	S[18]	-	-	P	P	-	-	Sec. 28.06.160	
<b>Assembly and Entertainment (except for the following uses)</b>	-	-	-	-	-	-	-	-	-	P	S	S	-	-	-	-	-	-	S		
Auditorium	-	-	-	-	-	-	-	-	P	P	S	S	-	-	-	-	-	-	S		
Cinema	-	-	-	-	-	-	-	-	P	P	S	S	-	-	-	-	-	-	-		
Theater	-	-	-	-	-	-	-	-	P	P	S	S	-	-	-	-	-	-	S		
Broadcast or Recording Studio	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-		
<b>Commercial Service</b>																					
Building service	-	-	-	-	-	-	-	-	S	P	-	S	-	-	-	P	P	-	-		
Business support service	-	-	-	-	-	-	-	P	P	P	P	P	-	-	-	P	P	-	-		
Consumer maintenance and repair	-	-	-	-	-	-	-	P	P	P	P	P	-	-	-	P	-	-	-		
Personal improvement service																					
General personal improvement services	-	-	-	-	-	-	-	P	P	P	P	P	P[13]	-	-	-	-	-	-		
Health and fitness services	-	-	-	-	-	-	-	P	P	P	P	P	P	-	-	S	S	-	-		
Studio or instructional services	-	-	-	-	-	-	-	P	P	P	P	P	S	-	-	-	-	-	-		
Fortune-telling or psychic service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	S	-	-		
Massage therapy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	S	S	-	-	Sec. 28.06.070	
<u>Tattoo and body piercing establishment</u>	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	P	P	-	-		
Research service	-	-	-	-	-	-	-	-	-	P	S	S	S[18]	P	P	P	P	-	-		
<b>Day Care</b>																					
Day care home	P	P	P	P	P	P	P	-	-	-	-	-	P	-	-	-	-	-	-	Sec. 28.06.030	
Day care center	-	-	-	-	S	S	S	P	P	P	-	S	S	P	P	P	P	S	-	Sec. 28.06.030	
<b>Eating and Drinking Establishment</b>																					
Restaurant	-	-	-	-	-	-	-	P	P	P	P	P	-	P[7]	P[7]	-	-	-	-		
Wine and/or Beer Boutique	-	-	-	-	-	-	-	P	P	P	P	P	S[18]	P	P	-	-	-	-		
<b>Financial Service</b>	-	-	-	-	-	-	-	-	P	P	P	P	P[18]	P	P	P	-	-	-		
<b>Funeral or Mortuary Service</b>	-	-	-	-	-	-	-	S	S	S	-	-	-	-	-	-	-	-	-		
<b>Lodging</b>	-	-	-	-	-	-	-	-	P	P	-	S	-	-	P	-	-	-	-		
Bed and Breakfast	-	-	-	-	-	-	-	-	-	-	-	S	S	-	-	-	-	-	-		
<b>Office</b>																					
Business and professional office	S	S	S	S	S	S	S	P	P	P	P	P	S	P	P	P	P	-	-	Sec. 28.06.090	
Medical, dental and health practitioner	-	-	-	-	-	-	S[4]	-	P	P	P/S[8]	P/S[8]	S	P	P	P	P	-	-		
<b>Parking, Non-Accessory</b>	-	-	-	-	-	-	-	-	S	S	-	S	S	S	S	S	S	-	-		
<b>Retail Sales</b>																					
Convenience goods	-	-	-	-	-	-	-	P	P	P	P/S[12]	P	P[18]	-	-	-	-	-	-		
Consumer shopping goods	-	-	-	-	-	-	-	P	P	P	P/S[12]	P	P[18]	-	-	-	-	-	-		
Guns and firearm supplies	-	-	-	-	-	-	-	[11]	[11]	[11]	-	-	-	-	-	S	-	-	-		



USE CATEGORY	R-1	R-2	R-3	R-4	R-5	R-5 A	R-6	B-1	B-2	B-3	DC	DB	DT	O-R	O-R-M	M-1	M-2	INP-1	INP-2	Supplemental Regulations	
Subcategory Specific use (See Sec. 28.05.020)																					
	P = use permitted as of right   S = special use approval required   - = not allowed																				
Adult Use Cannabis Dispensing Organization	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Adult Use Cannabis Infuser Organization or Infuser	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Adult Use Cannabis Processing Organization or Processor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Adult Use Cannabis Transporting Organization or Transporter	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

**A. Specific Limitations**

- [1] Requires minimum lot area of 40 acres. Maximum 25% building coverage.
- [2] Requires minimum lot area of 10 acres.
- [3] Requires minimum lot area of 25 acres. Maximum 25% building coverage.
- [4] Must be within 150 feet of a B district.
- [5] Requires special use approval if above one dwelling unit per 4,000 square feet of lot area.
- [6] Special Use only if use was in existence on or prior to June 7, 2005.
- [7] Requires minimum seating capacity of 125 persons.
- [8] Permitted as of right up to 3,000 sq. ft. (gross floor area); larger requires special use approval.
- [9] Must be in a completely enclosed building.
- [10] Maximum 10,000 sq. ft. (gross floor area).
- [11] Permitted only if ancillary to the following principal uses: sporting goods stores, uniform supply stores and public safety equipment stores.
- [12] Consignment stores and martial arts studios permitted as of right up to 3,000 square feet (gross floor area); larger requires special use approval. Other uses permitted as of right up to 15,000 sq. ft. (gross floor area); larger requires special use approval.
- [13] Barber shops, beauty shops and salons only; must be on ground floor and may not exceed 2,500 square feet floor area.
- [14] Art galleries and studios only; must be on ground floor and may not exceed 2,500 square feet floor area.
- [15] Drive through banks only.
- [16] See Section 28.06.180.
- [17] Located on 2<sup>nd</sup> floor or above.
- [18] Maximum floor area is 2,500 square feet unless located along Main Street where there is no floor area limitation.
- [19] Use must include on-site retail sales.
- [20] Requires minimum lot area of 1 acre.

(Ord. No., 5804 12/17/19; Ord. No. 5706, 7/10/18; Ord. No. 5571, § 1, 11/22/16| Ord. No. 5463, § 1, 6/2/1

**Section 2. That Section 28.3.040 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.3.040 Special Street Setback Requirements**

Special street setback requirements are established to reflect existing neighborhood conditions, historical building patterns and other unique context issues. The special street setback requirements of Table 3-3 govern in the case of conflict with the lot and building regulations in Table 3-2.

Table 3-3: Special Street Setback Requirements in B, O and M District

Street Frontage or Area[1]	B-1	B-2	B-3	O-R	O-R-M	M-1	M-2
Douglas Road (between Rogers Street and Maple Ave.)	-	-	-	-	-	10	-
Fairview Concentrated Business District	8	8	8	-	-	-	-
Inverness Road, North Side (between Belmont Road and Janes Ave.)	-	-	-	-	-	25	-
Maple Avenue, South Side	-	-	-	-	10	10	-
Ogden Avenue (from ROW centerline)							
Principal and accessory buildings	75	75	75	-	75	75[4]	-
Canopy	50[2]	50[2]	50[2]	-	-	-	-
Other (e.g., parking, fences, light poles)	50	50	50[3]	-	50	50[4]	-
Rogers Street, South Side (between Prospect Ave. and Fairview Ave.)	-	-	-	-	-	10[5]	-
<del>Second Street, North Side (between Fairview Ave. and Wilcox Ave.)</del>	50	-	-	-	-	-	-
Second Street (between Wilcox Ave. and Cumnor Road)	-	-	-	-	-	60	-
Warren Avenue, South Side (between Lee Street and Saratoga Ave.)	-	-	-	-	-	10[5]	-

Notes to Table 3-3

- [1] All setbacks measured in feet from lot line unless otherwise expressly indicated.
- [2] Or eight feet (8') from lot line, whichever provides the greater setback. Vertical canopy supports subject to fifty-eight foot (58') minimum setback from ROW centerline. See Figure 3-2.
- [3] Setback for parking and vehicle display reduced to eight feet (8') along non-Ogden (corner) street frontage.
- [4] Setback reduced to eight feet (8') along non-Ogden (corner) street frontage.
- [5] Applies only to lots that were classified for manufacturing uses as of January 1, 1950.

\* \* \*

**Section 3. That Section 28.5.030 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec. 28.5.030(a)(8) - Caretaker/Security Dwelling Resident**

\* \* \*

(8) Caretaker/Security Dwelling. A single dwelling unit that is accessory to an allowed use and that is occupied solely by an individual who is responsible for maintenance or security in association with the principal non-residential use of the property.

\* \* \*

**Section 4. That Section 28.5.050 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.5.050(e)**

\* \* \*

(e) Commercial Service. Uses that provide for consumer or business services and for the repair and maintenance of a wide variety of products.

- (1) Building Service. Uses that provide maintenance and repair services for all structural and mechanical elements of structures, as well as the exterior spaces of a premise. Typical uses include contractor offices, janitorial, landscape maintenance, extermination, plumbing, electrical, HVAC, window cleaning and similar services.
- (2) Business Support Service. Uses that provide personnel services, printing, copying, photographic services or communication services to businesses or consumers. Typical uses include employment agencies, copy and print shops, caterers, telephone answering services and photo developing labs.
- (3) Consumer Maintenance and Repair Service. Uses that provide maintenance, cleaning and repair services for consumer goods on a site other than that of the customer (i.e., customers bring goods to the site of the repair/maintenance business). Typical uses include laundry and dry cleaning pick-up shops, tailors, taxidermists, dressmakers, shoe repair, picture framing shops, locksmiths, vacuum repair shops, electronics repair shops and similar establishments. Business that offer repair and maintenance service technicians who visit customers' homes or places of business are classified as a "building service."
- (4) Personal Improvement Service. Uses that provide a variety of non-medical services associated with frequent, recurrent, and instructional needs.
  - a. General Personal Improvement Services. Uses serving individual necessities, such as personal grooming and general wellbeing. Typical uses include barbers, beauty and nail salons, day spas, microblading and businesses purporting to offer fortune-telling or psychic services.
  - b. Health and Fitness Services. Uses that provide physical fitness services and leisure time activities. Typical uses include health clubs, yoga studios, martial arts studios, dance studios, and gymnastics studios
  - c. Studio or Instructional Services. Uses in an enclosed building that focus on providing education, individual or group instruction or training in music, drama, fine arts, arts studios, language or similar activities. Also includes artist studios and photography studios.
  - d. Massage Therapy Services. Establishments whose primary business is that of providing massage – defined as any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with aid

of any mechanical electrical apparatus or appliances with or without rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations used in this practice, under such circumstances that it is reasonably expected that the person to whom treatment is provided, or some third party on such persons behalf, will pay money or give other consideration or any gratuity therefor. See also DGMC Section 28.6.070.

e. Tattoo and body piercing establishments ~~(as defined in 410 ILCS 54/1.) are also included in the personal improvement service use subcategory but are expressly prohibited in the Village, regardless of any underlying or overlay zoning designation.~~

\* \* \*

**Section 5. That Section 28.6.010 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.6.010 Accessory Uses**

(a) General Regulations. The general regulations of this subsection apply to all accessory uses and structures unless otherwise expressly stated.

- (1) Accessory Uses Allowed. Accessory uses and structures are permitted in connection with lawfully established principal uses.
- (2) Accessory Use Determinations. The Community Development Director is authorized to determine when a use, building or structure meets the criteria of an accessory use or accessory structure. In order to classify a use or structure as “accessory” the Community Development Director must determine that the use or structure:
  - a. is subordinate and clearly incidental to the principal structure or principal use served in terms of area and function;
  - b. provides a necessary function for or contributes to the comfort, safety or convenience of occupants of the principal use; and
  - c. is customarily found in association with the subject principal use or principal structure.
- (3) Time of Construction and Establishment
  - a. Accessory uses may be established only after the principal use of the property is in place, unless approved in accordance with the special use procedures of DGMC Section 28.12.050.
  - b. Accessory buildings may be established in conjunction with or after the principal building. They may not be established before the principal building is in place.
- (4) Location. Accessory uses and structures must be located on the same lot as the principal use to which they are accessory, unless otherwise expressly stated.
- (5) Accessory Buildings and Structures
  - a. Applicable Regulations and Standards. Accessory buildings and structures are subject to the same regulations and standards that apply to principal uses and structures on the subject lot, unless otherwise expressly stated. Accessory buildings attached to the principal building by a breezeway, passageway or similar means are subject to the building setback regulations that apply to the principal building.

- b. Building Separation. Accessory buildings must be separated by a minimum distance of ten feet (10') from the principal building on the lot, unless the accessory building is located entirely within the principal building setbacks, in which case no separation is required.

(6) Residential Accessory Buildings. The following additional regulations apply to buildings that are accessory to (principal) residential uses:

- a. Accessory buildings are prohibited in street yards.
- b. No more than three (3) detached accessory buildings are allowed on any lot.
- c. The aggregate footprint or coverage of all accessory buildings on a lot may not exceed one thousand (1,000) square feet or the gross floor area of the principal building, whichever is less.
- d. Residential accessory buildings in the R-4 district are subject to minimum side and rear setbacks of five feet (5'). In all other R districts, the minimum side and rear setback for accessory buildings is six feet (6').
- e. Residential accessory buildings may not occupy more than forty percent (40%) of the corner, rear or side yard area.
- f. Residential accessory buildings may not exceed twenty-three feet (23') in height, as measured to the highest point on the building.
- g. Residential accessory buildings and structures are permitted in corner yards, as specified in Table 14-1 within DGMC Section 28.14.100.

(7) Nonresidential Accessory Buildings. The following additional regulations apply to buildings that are accessory to (principal) nonresidential uses:

- a. Accessory buildings are prohibited in street setbacks.
- b. Accessory buildings are subject to the lot and building regulations of the subject zoning district.

(8) Accessory Structures on Rooftops. The following accessory structures are permissible on a flat roof: arbors, decks, gazebos, hot tubs, pergolas, sports courts, swimming pools and trellis provided all of the following three (3) items are met:

- a. In combination, all accessory structures that exceed the height of the parapet may not exceed forty percent (40%) of the total rooftop area (as measured from the interior face of the parapet)
- b. The maximum height may not exceed twelve feet (12') above the top of the roof structure
- c. All accessory structures that exceed the height of the parapet wall must be setback a minimum of one and one half (1.5) times the height of the difference between the height of the accessory structure and the top of the parapet wall.

\* \* \*

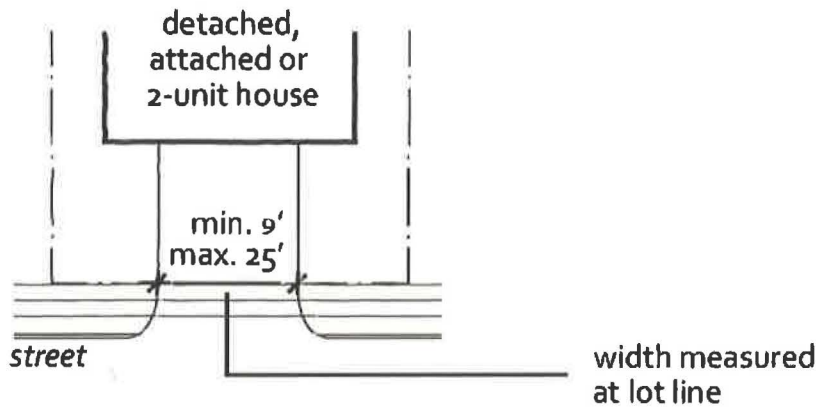
**Section 6. That Section 28.7.030 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.7.030 Minimum Motor Vehicle Parking Ratios**

\* \* \*

Table 7-1: Minimum Motor Vehicle Parking Requirements

Day Care - 2 spaces per 1,000 sq. ft., plus 1 drop-off or pick-up space per 1,000 sq. ft. (not to exceed a maximum, ~~minimum~~ of 10)



**Section 7. That Section 28.7.100 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.7.100(j) Access**

\* \* \*

(j) Access

(1) Each required off-street parking space must open directly upon an aisle or driveway with a width and design that provides safe and efficient means of vehicular access to the parking space. In residential districts, parking pads may be located in the front yard, but must meet the required minimum street setback.

(2) All off-street parking must be designed with appropriate means of vehicular access to a street or alley in a manner that will least interfere with motorized and non-motorized traffic.

(3) Driveways leading to detached garages or parking areas serving a detached house, attached house or two-unit house must be at least nine feet (9') in width. However, if the distance between an existing house and the property line is less than ten feet (10') wide, an existing driveway may be replaced within the same footprint. New driveways must meet width and setback requirements. No driveway serving a detached house, attached house or two-unit house across public property or requiring a curb cut may exceed twenty-five feet (25') in width, excluding any flared pavement portion, as measured at the lot line.

See Figure 7-5.

(4) All other uses must be designed with appropriate means of vehicular access from the street, as approved by the Public Works Director.

(5) All driveways must be improved with a compacted stone base and surfaced with asphalt, concrete or other comparable all-weather, dustless material.

(6) Shared driveways, lawfully existing before October 13, 2020, may be replaced if either property does not allow sufficient space to meet the minimum driveway width and setback requirements, as approved by the Community Development Director.

(7) Parking pads, lawfully existing before October 13, 2020, may be replaced, but not expanded or enlarged, unless behind the required street or corner street setback.

\* \* \*

**Section 8. That Section 28.10.010 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.10.010(b) Fences**

\* \* \*

(b) Fences in R Districts. Fences in R zoning districts are subject to the general regulations of DGMC Section 10.010(a) and the R district regulations of this subsection. See Figures 10-1 and 10-2.

(1) Street and Corner Yards. The regulations of this subsection apply to fences in street and corner yards of lots located in R districts.

a. Open-design fences that do not exceed four feet (4') in height are permitted within street and corner yards.

b. Chain-link and woven mesh fences are prohibited in street and corner yards, except that chain-link fences, including those that are anodized or vinyl-clad, constructed without slats, are permitted in the street and corner yard area on corner lots when the side of any principal structure located on the subject lot faces a street, provided that the fence does not exceed four feet (4') in height and is located only in the area from the rear line of the structure to the rear lot line.

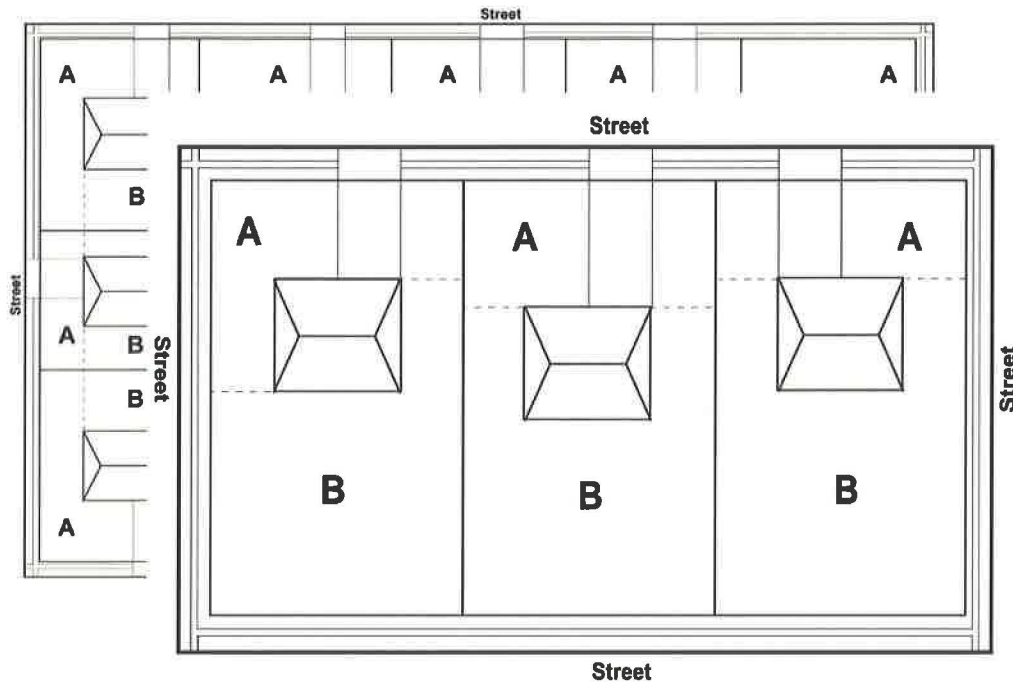
c. Fences up to six feet (6') in height are permitted in the street and corner yard area on corner lots when the side of any principal structure located on the subject lot faces a street if the rear of the structure faces the rear of a structure that is located on an adjacent corner lot, provided that the fence is located only in the area from the rear line of the structure to the rear lot line.

d. Fences up to six feet (6') in height are permitted in the street and corner yard area of an R-zoned lot occupied by a principal nonresidential use if the lot has multiple street frontages and contains a parking lot without a structure. Such fence must be an open-design fence (See DGMC Section 10.010(a)(5)) and be constructed along the parking lot perimeter immediately adjacent to an arterial street or non-residentially zoned property. All other landscaping and screening requirements of Article VIII apply.

(2) Side and Rear Yards. The regulations of this subsection apply to fences in the side and rear yards of lots located in R districts.

a. Fences, including chain-link and woven mesh designs, are permitted in side and rear yards and required setbacks. Fences in side and rear yards may not exceed six feet (6') in height. On double-frontage lots, when the rear of any principal structure located on the lot faces a street, and all directly abutting lots share this layout, the yard along that street frontage is considered a rear yard for purposes of these fence regulations. On double-

frontage lots, when the rear of any principal structure located on the lot faces a street, and one or more directly abutting lots has the front of a principal structure that faces the same



street, the fence must adhere to the yard requirements of the front facing principal structure.

b. On corner lots with three (3) lot lines abutting a street, fences up to six feet (6') in height, including chain-link and woven mesh designs, are permitted only within the two (2) street-facing side yard areas located from the rear building line to the rear lot line. Any fences outside this area are subject to a maximum height limit of four feet (4').

Figure 10-1: Residential Fence Regulations

Figure 10-2: Residential Multi-Frontage Fence Regulations

Fence Regulations Quick Guide

A – Fences may be open and not exceed four feet (4') in height.

B – Fences may be open or solid and not exceed six feet (6') in height.

(c) Fences in Nonresidential Districts. Fences in nonresidential zoning districts are subject to the general regulations of DGMC Section 29.10.010A and the nonresidential district regulations of this subsection.

(1) Street and Corner Yards. Open-design fences up to eight feet (8') in height are permitted in street yards.

(2) Side and Rear Yards. Fences up to eight feet (8') in height are allowed in side and rear yards.

**Section 9. That Section 28.11.040 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec. 28.11.040 Nonconforming Structures**

(a) Description. A nonconforming structure is any structure, other than a sign, that was lawfully established but no longer complies with applicable lot and building regulations or other dimensional or locational requirements of this zoning ordinance. Regulations governing nonconforming signs can be found in DGMC Section 28.9.090.

(b) Use. A nonconforming structure may be used for any use allowed in the zoning district in which the structure is located.

(c) Alterations and Expansions

(1) Nonconforming structures may be altered or expanded if the proposed alteration or expansion complies with all applicable lot, building, dimensional and locational requirements and does not increase the extent of the structure's nonconformity. A building with a nonconforming street setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback standards.

(2) A structure with a nonconforming setback may not be expanded horizontally or vertically within the required setback area, except that the zoning board of appeals may approve either a horizontal or a vertical extension of the nonconforming exterior walls of a detached house in accordance with the zoning exception procedures of DGMC Section 28.12.080. In order to approve such horizontal or vertical extension, the zoning board of appeals must find that all of the following criteria have been met:

- a. the extended wall will comply with all other applicable lot and building regulations (other than the nonconforming setback);
- b. the extension will not obstruct farther into the required setback than the existing exterior building wall and will not extend the horizontal length of the nonconforming building wall more than fifteen percent (15%) of its existing length;
- c. the horizontal or vertical wall extension does not include windows that allow views onto an abutting lot occupied by a detached house;
- d. the appearance of the expansion will be compatible with the adjacent property and neighborhood; and
- e. the expansion will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.

(d) Moving. A nonconforming structure may be moved in whole or in part to another location only if the movement or relocation eliminates or reduces the extent of nonconformity.

(e) Loss of Nonconforming Status

(1) Damage or Destruction

a. When a nonconforming structure is destroyed or damaged by acts of God or accidental fire, the structure may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within twelve (12) months of the date of occurrence of such damage.

b. When a nonconforming structure is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than fifty percent (50%) of the market value of the structure, as determined by the property owner's certified appraiser, the structure may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.

(2) Damage or Destruction after Right-of-Way Acquisition If a structure is rendered nonconforming or made more nonconforming by a public agency's acquisition of right-of-way and the structure is subsequently damaged or destroyed by any means, the structure may be reestablished, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within twelve (12) months of the date of occurrence of such damage.

(f) Nonconforming Fences. Nonconforming fences may be maintained or repaired without regard to the requirements of this zoning ordinance, provided that the extent of nonconformity of the fence is not increased. The damage or destruction provisions of DGMC Section 28.11.040(e)(1) apply to nonconforming fences.

(g) Nonconforming Accessory Structures. Any nonconforming residential accessory structure such as a garage, shed, deck or porch may be razed and replaced in its entirety, provided that it is replaced in the same location, and for the same purpose, with no footprint expansion and no more than an increase of fifteen percent (15%) of the original height. This provision does not apply to nonconforming accessory structures located within Special Management Areas as defined in Chapter 26 or those structures that are located over common property lines or the public right-of-way.

\* \* \*

**Section 10. That Section 28.14.040 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.14.040 Floor Area**

The floor area of a building is measured as the sum of the gross horizontal areas of all floors of the subject building, measured from the interior faces of the exterior walls or from interior faces of walls between separate buildings. "Floor area" includes basement and cellar floor areas; elevator shafts and stairwells at each floor; ~~floor space used for mechanical equipment, open or enclosed, located on the roof;~~ penthouse; attic space having headroom of seven feet ten inches (7'10") or more; interior balconies and mezzanines; enclosed porches; and floor area devoted to accessory uses. Space devoted to off-street parking or loading is not included in floor area calculations.

**Section 11. That Section 28.14.100 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.14.100(b) Setbacks**

(b) Permitted Obstructions. Yards in all zoning districts must be unobstructed and unoccupied from the ground to the sky except as indicated in Table 14-1.

Table 14-1: Permitted Yard Obstructions

Obstruction/Projection	Permitted in these Yards				Minimum Setback/Maximum Encroachment into required setback
	Corner	Street	Side	Rear	
A/C units, generators, compressors, transformers, associated equipment, rainwater collection and geothermal equipment (ground-mounted)	<a href="#">No</a>	No[1]	Yes	Yes	10 ft. min. setback in R-1 7 ft. min. setback in R-2 6 ft. min. in R-3, R-5, R-5A, R-6 5 ft. min. setback in all other districts
Air conditioner (window unit only)	<a href="#">Yes</a>	Yes	Yes	Yes	No setback required
Antenna, amateur radio	<a href="#">No</a>	No	No	Yes	
Antenna, receive-only and satellite dish	<a href="#">Yes</a>	Yes	Yes	Yes	
Arbor, pergola or trellis	<a href="#">Yes</a>	Yes	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Architectural building features (e.g., sills, belt courses, cornices, wing walls)	<a href="#">Yes</a>	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.
Awning, canopy architectural light shelf or solar shading device	<a href="#">Yes</a>	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft. (nonresidential districts - 2.5 ft. max. encroachment in street setback)
Balcony	<a href="#">Yes</a>	Yes	Yes	Yes	Must meet required district street and side yard setbacks. 10 ft. max. encroachment in rear yard
Basketball standards and backboards	<a href="#">Yes</a>	Yes	Yes	Yes	
Bay window (1st floor only; with or without foundation)	<a href="#">Yes</a>	Yes	Yes	Yes	Street setback - 1.5 ft. max. encroachment Side setback - 1.5 ft. max. encroachment if setback is < 6 ft. or 2 ft. max. encroachment if setback is ≥ 6 ft. Rear setback - 2.5 ft. max. encroachment

Bicycle Parking	<a href="#">Yes</a>	Yes	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Breezeway	<a href="#">No</a>	No	No	Yes	10 ft. max. max. encroachment
Chimney	<a href="#">Yes</a>	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.
Clothesline	<a href="#">No</a>	No	Yes	Yes	5 ft. min. setback
Compost pile or container (See Chapter 13 of this Code)	<a href="#">No</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Deck or patio, uncovered and open-air (see also "porch," below)[2]	<a href="#">Yes</a>	Yes	Yes	Yes	5 ft. max. encroachment in street setback 5 ft. min. setback in side <a href="#">setback</a> and rear <a href="#">setback</a> property line in side and rear.
Dog house or dog run	<a href="#">No</a>	No	No	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Driveway or uncovered walk	<a href="#">Yes</a>	Yes	Yes	Yes	1 ft. min. setback
Eaves and gutters	<a href="#">Yes</a>	Yes	Yes	Yes	In street setback and rear setback - 2.5 ft. max. encroachment In side setback - 2 ft. max. encroachment
Electric vehicle charging equipment	<a href="#">Yes</a>	Yes	Yes	Yes	In front and rear - 2.5 ft. max. encroachment In side - 2 ft. max. encroachment
Fence	<a href="#">Yes</a>	Yes	Yes	Yes	See also Sec. 10.010
Fire escape (open or lattice enclosed, fireproof outside stairways)	<a href="#">Yes</a>	Yes	Yes	Yes	2 ft. max. encroachment
Fireplace, fire pit, outdoor cooking/kitchen areas (See Chapter 13 of this Code)	<a href="#">Yes [3]</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts <a href="#">Must meet required R district street setback in corner yards</a>
Flag pole	<a href="#">Yes</a>	Yes	Yes	Yes	Equal to the height of the pole; no max. encroachment of flag beyond lot line
Garage (detached)[4]	<a href="#">No</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts

Garden features (e.g., cold frames, hoop houses, greenhouses)	<a href="#">No</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Gazebo	<a href="#">Yes</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Hot Tub (and associated equipment)	<a href="#">Yes [3]</a>	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">10 ft. min. setback in R-1 and R-2 districts</a> <a href="#">7 ft. min. setback in all other R districts</a> <a href="#">Must meet required R district street setback in corner yards</a>
Parking, open	<a href="#">Yes</a>	Yes	Yes	Yes	See also DGMC Section 28.7.070
Playground equipment & playhouses (excluding equipment located on public parks and playgrounds or on school or day care center playgrounds, tot lots)	<a href="#">Yes [3]</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts <a href="#">Must meet required R district street setback in corner yards</a>
Porch, covered and open on at least 3 sides (see also “deck,” above)	<a href="#">Yes</a>	Yes	Yes	Yes	5 ft. max. encroachment in street setback and rear setback (See also DGMC Section 28.14.100(c)) Must meet required district side yard setbacks
Shed, carport or storage structure	<a href="#">No</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Sign	<a href="#">Yes</a>	Yes	No	No	See Article IX
Solar panel and equipment (building-mounted)	<a href="#">Yes</a>	<a href="#">Yes</a> <del>No</del>	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.
Solar panel and equipment (ground-mounted)	<a href="#">No</a>	No	Yes	Yes	2 ft. max. encroachment in side setback; 10 ft. max. encroachment in rear setback. See also DGMC Section 28.6.010(m)
Sport courts & accessory lighting	<a href="#">No</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Sports equipment	<a href="#">No</a>	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Steps (for access to building or lot; max. 4 feet above grade)	<a href="#">Yes</a>	Yes	Yes	Yes	1 ft. min. setback
Swimming pool (in-ground & above-ground, <a href="#">hot tubs</a> and associated equipment)	<a href="#">No</a>	No	Yes	Yes	10 ft. min. setback in R-1 and R-2 districts 7 ft. min. setback in all other R districts

Walkway (covered)	<a href="#">No</a>	No	No	No	In residential districts - principal building setbacks apply In nonresidential districts - no side or rear setback required
Wall	<a href="#">Yes</a>	Yes	Yes	Yes	See also DGMC Section 28.10.010
Wall, retaining	<a href="#">Yes</a>	Yes	Yes	Yes	1 ft. min. setback
Yard features (e.g., ornamental light standards, anchored lawn furniture and decorations, sundials, statues, bird baths, ponds, sculptures, seat walls, etc.)	<a href="#">Yes</a>	Yes	Yes	Yes	<a href="#">No setback in DB, DC and DT district</a> 5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Wheelchair lifts and ramps that meet federal and state accessibility standards	<a href="#">Yes</a>	Yes	Yes	Yes	1 ft. min. setback
Window wells	<a href="#">Yes</a>	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.

[1] Except for single family residential uses, units may be located on the building’s primary street facade and in front of a bump as long as the unit is screened by a wing wall made of the same material as the primary facade which is attached to the primary building via a full foundation and is at least as tall as the equipment.

[2] [Provided that in Planned Unit Developments or other subdivisions containing ten \(10\) or more lots in which permanent common open space is provided under the terms of the recorded covenants or a public park, patios and decks may be placed one \(1\) foot from the rear and side lot line.](#)

[3] [Only on corner lots, may be placed up to the minimum required setback, provided that they are screened on all sides by an open fence, wall, dense hedge or other landscaping that provides at least eighty percent \(80%\) direct view blocking. The hedge or landscaping must reach a minimum height of thirty-six inches \(36’\) at maturity.](#)

[4] [Only on corner lots, detached garages may be placed up to the minimum required street setback provided that they are located between the rear property line and the rear wall of the building.](#)

**Section 12. That Section 28.14.130 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.14.130(b) - Height Exceptions**

Lawfully established parapet walls, chimneys, elevators bulkheads, equipment penthouses, cooling towers, monuments, water towers, stacks, flag poles, stage towers [and](#); scenery lofts, ornamental towers,

spires, and necessary mechanical appurtenances are exempt from zoning district height limits and are not included in building height measurements.

**Section 13. That Section 28.15.280 of the Zoning Ordinance is hereby amended to read as follows:**

**Sec 28.15.280 Words And Terms Beginning With "Y"**

*Yard.* The actual (as opposed to “required”) horizontal distance that exists between a principal building and a property line. See also “setback” in DGMC Section 28.14.100.

*Yard, Corner:* On a corner lot, the yard that exists opposite the rear yard between a principal building and street property line, extending along the full length of the street property line.

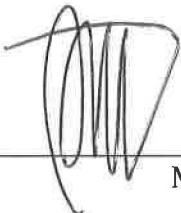
*Yard, Street.* The yard that exists between a principal building and the street property line of the lot on which the building is located, extending along the full length of the street property line.

*Yard, Rear.* The yard that exists between a principal building and the rear property line of the lot on which the building is located, extending along the full length of the rear property line.

*Yard, Side.* The yard that exists between a building and the interior side property line of the lot on which the building is located, extending along a side property line.

**Section 14.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 15.** That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

  
\_\_\_\_\_  
Mayor

Passed: October 20, 2020

Published: October 21, 2020

Attest:   
Village Clerk