

1. Agenda

Documents:

[2023-01-17 BUILDING COMMISSION - PUBLIC AGENDA-1777.PDF](#)

2. Meeting Materials

Documents:

[2023-01-17 BUILDING COMMISSION - FULL AGENDA-1777.PDF](#)

AGENDA

Regular Meeting of the
Nichols Hills Building Commission
Tuesday, January 17, 2023 at 4:00 PM
City Hall, 6407 Avondale Drive
Nichols Hills, OK 73116

If special assistance is needed for this meeting by any person wishing to attend, please contact the City Clerk's office no later than 48 hours prior to the meeting, and such assistance will be provided.

Official action may be taken by the Building Commission only on items that appear on this Agenda. The Building Commission may dispose of the business set out on this Agenda by accepting, approving, adopting, rejecting, amending, or postponing action as to each item, as determined by the Building Commission.

1. Call to Order
2. Roll Call
3. Citizens Desiring to be Heard

The purpose of this time is to allow members of the public to speak to the Building Commission on any matter that is not otherwise set for consideration on this Agenda.

4. Minutes
 - a. December 20, 2022 Minutes
5. Public Hearings

Consideration of adoption, approval, acceptance, rejection, amendment, and/or postponement of the following:

- a. Certificate of Approval Application - 6421 Centennial Court, Nichols Hills, OK.
- b. Certificate of Approval Application - 1705 Dorchester Drive, Nichols Hills, OK.
- c. Certificate of Approval Application - 1705 Wilshire Boulevard, Nichols Hills, OK.

- d. Certificate of Approval Application - 6923 Avondale Court, Nichols Hills, OK.
- e. Certificate of Approval Application - 1831 Drakestone Avenue, Nichols Hills, OK.
- f. Certificate of Approval Application - 1125 Bedford Drive, Nichols Hills, OK.

6. Items for Separate Vote

Consideration of adoption, approval, acceptance, rejection, amendment, and/or postponement of the following:

- a. Draft ordinance regarding secondary buildings, accessory buildings, accessory structures, and accessory uses.

7. Adjournment

I certify that the forgoing was filed in the Office of the City Clerk at 1:50 PM on the 13th day of January, 2023 and posted in prominent view on the window at City Hall, 6407 Avondale Drive, at 2:10 PM on the 13th day of January, 2023; posted to the City of Nichols Hills website at <http://www.nicholshills.net> at 5:00 PM on the 13th of January, 2023; and transmitted by email at 5:00 PM on the 13th day of January, 2023 to those persons who have requested to be included on such notices pursuant to the Open Meeting Act and to those who have requested such notice.



City Clerk
City of Nichols Hills, Oklahoma

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City Clerk
City of Nichols Hills, Oklahoma

MINUTES

Regular Meeting of the
Nichols Hills Building Commission
Tuesday, December 20, 2022 at 4:00 PM
City Hall, 6407 Avondale Drive
Nichols Hills, OK 73116

**Original agenda filed in the Office of the City Clerk at 3:41 PM on
the 16th day of December, 2022.**

1. Call to Order
2. Roll Call

Attendee Name	Title	Status	Arrived
Larry Herzel	Chairman	Present	
John Lippert		Present	
Tori Raines		Present	
Rusty Caston		Present	
Jeff Oakley		Present	

3. Citizens Desiring to be Heard

The purpose of this time is to allow members of the public to speak to the Building Commission on any matter that is not otherwise set for consideration on this Agenda.

No one expressed a desire to be heard.

4. Minutes

- a. November 15, 2022 Minutes

MOTION: Lippert moved to approve the November 15, 2022 minutes as presented. Oakley seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Lippert
SECONDER:	Jeff Oakley
AYES:	Herzel, Lippert, Raines, Caston, Oakley

- b. December 2, 2022 Minutes

MOTION: Lippert moved to approve the December 2, 2022

Attachment: December 20 2022 minutes (6283 : 3 December 20, 2022 Minutes)

minutes as presented. Caston seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Lippert
SECONDER:	Rusty Caston
AYES:	Herzel, Lippert, Raines, Caston, Oakley

5. Public Hearings

Consideration of adoption, approval, acceptance, rejection, amendment, and/or postponement of the following:

- a. Certificate of Approval Application - 1711 Camden Way, Nichols Hills, OK.

Mr. Chris Candelaria, Candelaria Design Build, presented the application to the Building Commission.

Following discussion among the Building Commission members, staff and applicant, Chairman Herzel opened the public hearing.

No one expressed a desire to be heard, the public hearing was closed.

MOTION: Caston moved to approve the application subject to amending the date on the civil sheet C4.0 to the date of revision, correct finish floor calculation to 12'10" and add silt fencing on Camden Way. Oakley seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rusty Caston
SECONDER:	Jeff Oakley
AYES:	Herzel, Lippert, Raines, Caston, Oakley

6. Items for Separate Vote

Consideration of adoption, approval, acceptance, rejection, amendment, and/or postponement of the following:

- a. An Ordinance deleting Section 50-133 of the Nichols Hills City Code and replacing it with a new division of the code regarding landscaping.

Mrs. Carla Sharpe, attorney for the City, presented the proposed ordinance to the Building Commission.

MOTION: Caston moved to recommend approval to the Planning Commission with the amendments of adding permitted hardscapes in the front yard to be a maximum of two entrance driveways, sidewalks, courtyards, parking courts and if applicable, a City-provided sidewalk in section a, and removing item b in Sec.50-304. Oakley seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rusty Caston
SECONDER:	Jeff Oakley
AYES:	Herzel, Lippert, Raines, Caston, Oakley

- b. An Ordinance amending Chapter 50 of the Nichols Hills City Code regarding outdoor lighting.

RESULT:	NO ACTION TAKEN
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- c. An Ordinance amending Section 50 of the Nichols Hills City Code regarding the No-Build vertical envelopes for the E-1 Estate District, the E-2 Urban Estate District, the R-1-75 Single-Family Residential District, and the R-1-60 Single-Family Residential District.

Chairman Larry Herzel discussed with Building Commission members the proposed ordinance concerning no-build vertical envelopes.

MOTION: Lippert moved to recommend approval to the Planning Commission subject to eliminating the no build vertical envelope in the E-1 Estate lots, and correcting the header in section (10) to read “No-Build Vertical Envelope - Main Building single step-back when Side Yard Setback is 20 feet or more.” Raines seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John Lippert
SECONDER:	Tori Raines
AYES:	Herzel, Lippert, Raines, Caston, Oakley

7. Adjournment

MOTION: There being no further business, Raines moved to adjourn the meeting. Caston seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tori Raines
SECONDER:	Rusty Caston
AYES:	Herzel, Lippert, Raines, Caston, Oakley

Chairman
Building Commission
City of Nichols Hills, Oklahoma

City Manager
Building Commission
City of Nichols Hills, Oklahoma

City Clerk
City of Nichols Hills, Oklahoma

Attachment: December 20 2022 minutes (6283 : 3 December 20, 2022 Minutes)

See City Clerk's office.

See City Clerk's office.

See City Clerk's office.

See City Clerk's office.

See City Clerk's office.

See City Clerk's office.

Published in _____ on _____, 2023

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50 OF THE NICHOLS HILLS CITY CODE REGARDING SECONDARY BUILDINGS, ACCESSORY BUILDINGS, ACCESSORY STRUCTURES, AND ACCESSORY USES; REPEALING ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

EMERGENCY ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NICHOLS HILLS, OKLAHOMA:

Section 1. Section 50-3 of the Nichols Hills City Code is amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-3. Definitions.

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

~~*Accessory Building, Structure, or use* means a Building, Structure, or use that is incidental, appropriate, and subordinate to the principal use of the land or Buildings located upon the same premises. A permitted home office use defined and allowed in Section 50-136 is an accessory use. Typical accessory Structures on a residential property would be a detached garage, carport, greenhouse, cabana, gazebo, pergola, storage shed, and any other Structure that is incidental, appropriate, and subordinate to the principal use of the residence. Architectural elements such as trellises and arbors that are used only for decorative purposes are not accessory Structures provided that the architectural design and material used harmonize with the Main Building. All portable Buildings are accessory Structures subject to the regulations of this chapter.~~

Accessory Building means a Building that is less than 650 square feet and that is incidental, appropriate, and subordinate to the principal Building(s) located on the same Lot.

Accessory Structure means a Structure that is less than 650 square feet and that is incidental, appropriate, and subordinate to the principal use of the Building(s) or land located on the same Lot.

Accessory Use means an activity or use in connection with or in a Building or Structure that is incidental, appropriate, and subordinate to the principal use of the Building(s), Structures or land on the same Lot.

Building, Portable, means a movable Accessory Building or Accessory Structure which is not connected to utility services, does not exceed 12 feet in height and 144 square feet in gross floor area. ~~is behind the front of the Main Building, is subject to other Setback requirements, and is included in Lot Coverage requirements.~~

Building, Secondary.

(1) The term ~~“Building, secondary,”~~ Secondary Building means any Structure containing the same uses and located on the same Lot as the Main Building as follows:

- a. In estate and single-family residential districts, Secondary Building means an integrated architectural design including more than one Structure, all of which are intended for occupancy by the immediate family or household staff as permitted. A detached garage which exceeds a 650 square foot Building footprint shall be considered a Secondary Building. Note that effective December 24, 2010, Secondary Buildings are not allowed in any Residential District. Some Secondary Buildings exist in the E-1-Estate and E-2 Urban Estate Districts that were built prior to that date.
- b. In multiple-family residential districts, Secondary Building means an architecturally compatible complex of two or more Buildings on a parcel under one ownership, with all Buildings providing the same type of permitted occupancy and as the Main Building.
- c. In office and retail commercial districts, Secondary Building means a parcel under one ownership with more than one Structure, and having shared parking and access.

(2) All applicable zoning and construction code requirements must be met. Secondary Buildings shall be included with the Main Building in the application of all development regulations of the Zoning District.

Detached Emergency Shelter means a Structure that is not attached to or part of another Building and that is designed and intended for temporary human habitation during periods of violent storms and emergency situations. An emergency shelter that is located below ground inside a Garage is not a Detached Emergency Shelter.

Landscape Structure means any Structure erected or installed outside and separated from the Main Building that is affixed to the ground and associated with landscaping or used in association with outdoor activities. Landscape Structures include greenhouses, storage sheds, gazebos, pergolas, artwork, statuary, and fountains.

Lot means any plot of land occupied or intended to be occupied by one Building, or a group of Buildings, ~~and Secondary Buildings, Accessory Buildings, Accessory Structures, and/or Accessory Uses~~, including such open spaces as required by this Chapter and other laws or Ordinances, and having its principal frontage on a Street. ~~For the purposes of this Chapter, Lot includes, but is not limited to, a measured plot of land having fixed boundaries and designated on a plat and of at least sufficient size to meet the requirements in this Chapter and in Chapter 40. Minimum Use Regulations and Development Standards, as the term "Lot" is defined in the City Subdivision Regulations.~~

Lot Coverage means the percentage of the Buildable Area of a Lot which is covered by a roof or other Structure and is not open to the sky, calculated from outside face of frame to outside face of frame. The term "Lot Coverage" includes, but is not necessarily limited to, the Main Building, Secondary Buildings, Accessory Buildings, Accessory Structures, and Accessory Uses. ~~covered Porches and decks, covered terraces, Carports, and Porte Cocheres. "Lot Coverage" does include unenclosed swimming pools, unenclosed tennis or game courts, and driveways.~~

Sports Court means any outdoor uncovered surface area designed for athletic or recreational purposes, including tennis, basketball, handball, pickleball, paddleball, badminton, bocce ball, volleyball, and racquetball courts. Sports Courts include any slabs, fences, and lighting accessory to the Sports Court. Sports Courts do not include driveways or parking areas that are used for athletic or recreational purposes (such as a single basketball goal installed on a residential driveway). Swimming Pools are not Sports Courts.

Section 2. New Division 6 of Article II is hereby added to Chapter 50, with new language underlined, to wit:

Division 6 – Accessory Buildings, Accessory Structures, and Accessory Uses.

Sec. 50-158. Accessory Buildings, Accessory Structures, and Accessory Uses in general. Except as otherwise set out in this Division, all Accessory Buildings, Accessory Structures, and Accessory Uses are subject to the following:

(a) *Permit required.* Unless exempted by this Division or otherwise stated, a Conditional Use Permit is required for all Accessory Buildings, Accessory Structures, and Accessory Uses as set out in Article IV of this Chapter.

(b) *Principal use required.* Accessory Buildings, Accessory Structures, and Accessory Uses are allowed only in connection with lawfully established principal uses.

(c) *Compliance with Zoning District regulations.* Each permitted Accessory Building, Accessory Structure, and Accessory Use is subject to the development regulations for the applicable the Zoning District, including regulations as to Setbacks, height, location, and separation from Main Buildings, all as set out for the City's Zoning

Districts in Division 2 and Division 3 of this Article.

(d) *Allowed Accessory Buildings, Accessory Structures, and Accessory Uses.* Allowed Accessory Buildings, Accessory Structures, and Accessory Uses are limited to those set out in this Division and those buildings, structures, and uses that satisfy the following criteria, as determined by the Code Official:

- (1) Buildings, Structures, and Uses that are customarily found in conjunction with the subject principal use or Main Building on the premises;
- (2) Buildings, Structures, and Uses that are subordinate to and clearly incident to the principal use or Main Building on the premises; and
- (3) Buildings, Structures, and Uses that serve a necessary function for or contribute to the comfort, safety or convenience of the occupants of the Main Building.

(e) *Time of construction and establishment.* Accessory Uses may be established only after the principal use of the property is in place. Accessory Buildings and Accessory Structures may be established only in conjunction with construction of the Main Building or after that construction is complete.

(f) *Code Official authority to impose conditions on issuance of permits.* As set out in Article IV of this Chapter, the Code Official is authorized to impose conditions on issuance of Conditional Use Permits for Accessory Buildings, Accessory Structures, and Accessory Uses, including: (1) conditions to address drainage issues attributable to the increase in impervious surface area resulting from a proposed Accessory Building, Accessory Structure or Accessory Use; (2) conditions to require Privacy Landscaping to address privacy concerns resulting from a proposed Accessory Building, Accessory Structure or Accessory Use; (3) conditions to address health and safety concerns. Compliance with all such conditions is mandatory; (4) conditions to address noise issues and to provide noise buffers; and (5) other reasonable conditions necessary to protect the public health, safety, comfort, and welfare.

(g) *Code Official authority to refer applications for hearing.* As set out in Article IV of this Chapter, the Code Official may refer applications for Conditional Use Permits to the Planning Commission and City Council for public hearings prior to granting the Conditional Use Permit.

(h) *Changing use after approval is prohibited.* Except for minor revisions as discussed in subsection (i), once a Conditional Use Permit is issued for an Accessory Building, Accessory Structure or Accessory Use, such building, structure or use may not be enlarged, extended, increased in intensity, or relocated unless the City issues a new Conditional Use Permit.

(i) *Minor revisions to approved Accessory Buildings, Accessory Structures or*

Accessory Uses. Minor revisions to Accessory Buildings, Accessory Structures, and Accessory Uses for which the Code Official has issued a Conditional Use Permit (or other applicable Permit) do not require a new Permit but must be approved by an amendment to the original Permit issued by the Code Official. Minor revisions are revisions to the Accessory Building, Accessory Structure or Accessory use that:

- (1) modify no more than five percent of the project from the original Permit;
- (2) are consistent with any conditions associated with the original Permit;
- (3) do not significantly alter the project previously approved; and
- (4) are in conformance with the Nichols Hills City Code and the intent of the Nichols Hills Building Commission Building Demolition, Design, and Construction Guidelines.

(j) *Lot Coverage implications.* Accessory Buildings, Accessory Structures, and Accessory Uses are included in the Lot Coverage calculations except the following when located outdoors and uncovered by a permanent roof structure:

- (1) In-ground swimming pools and aboveground swimming pools that do not exceed five feet in height above ground;
- (2) Decks or hard surfaced terraces at or within five feet of grade; and
- (3) Sports Courts.

Sec. 50-159. Cabanas and Pool Houses.

Cabanas and pool houses without kitchen facilities are Accessory Structures that are allowed in the Residential Zoning Districts by Conditional Use Permit. Where allowed, cabanas and pool houses are subject to Section 50-158 and the following:

- (1) Cabanas and pool houses may only be used in connection with swimming pools and outdoor activities. They may not be used for household occupancy or for use for any commercial purpose as prohibited by Section 50-166.

Sec. 50-160. Carports.

Carports are Accessory Structures that are allowed by Conditional Use Permit. Carports are subject to Section 50-158 and the following:

- (1) *Use.* Carports may be used only for use for parking one operable motor vehicle. Carports may not be used for storage of personal property or inoperable vehicles.
- (2) *Permanently open.* Carports must be permanently open on two sides. Enclosure of a Carport is grounds for revocation of the permit for it.

- (3) *Located on hard surface.* Carports must be located over a permanent hard surface.
- (4) *Number.* There may be no more than one Carport per Dwelling.
- (5) *Design.* Carports must have an architectural design and appearance compatible with the Main Building, including roof type and pitch, colors, structural design, texture, and materials.
- (6) *Maintenance.* Carports must be kept in an attractive state in good repair, and in a safe and sanitary condition.
- (7) *Attachment to residence.* Carports may not be attached to a Dwelling.
- (8) *Existing Carports.* Once constructed, Carports may not be enlarged or altered in any way. Should a carport be damaged or destroyed by any means, it must be removed or replaced or repaired in compliance with this Section.

Sec. 50-161. Detached Emergency Shelters.

Detached Emergency Shelters are Accessory Structures that are allowed by Conditional Use Permit. Detached Emergency Shelters are subject to Section 50-158 and the following:

- (1) Detached Emergency Shelters may not be located in a Front Yard or Side Yard unless it is not physically feasible to install in the Rear Yard, in which case no part of the shelter may exceed 18 inches in height above ground level except for Detached Emergency Shelters built to be handicapped accessible.
- (2) Any part of a Detached Emergency Shelter that is in a Front Yard or Side Yard that is visible from a Street or a public way must be screened. Such screening must consist of a combination of stone or masonry walls and evergreen landscaping or other methods approved by the Code Official.

Sec. 50-162. Detached Garages.

Detached Garages are Accessory Buildings that are allowed in the Residential Zoning Districts by Conditional Use Permit. Detached Garages are subject to the requirements of Section 50-158 and the following:

- (1) As set out in Section 50-3, Detached Garages that exceed a 650 square foot building footprint in the E-1 Estate District, the E-2 Urban Estate District, the R-1-75 Single-Family Residential District, and the R-1-60 Single-Family Residential District are considered Secondary Buildings and are prohibited. And as set out in Sections 50-51 and 50-52, Detached Garages that exceed a 450 square foot building footprint or 20 foot building height in the R-2 Two-

Family Residential District or the R-3 Multiple Family Residential District are considered Secondary Buildings and require a Special Use Permit.

- (2) Garage doors are subject to the residential high-wind construction requirements set out in Section 8-29.
- (3) Detached Garages may be constructed only in the Rear Yard or Side Yard of a Lot.

Sec. 50-163. Dumpsters.

Dumpsters are Accessory Structures that are allowed in some circumstances as set out in this Code by Conditional Use Permit. Where allowed, dumpsters are subject to Section 50-158 and the following:

- (1) Section 36-26 of this Code regarding large scale receptacles, the definition of which includes dumpsters.
- (2) Dumpsters must be located on a dustless, all-weather surface.
- (3) Dumpsters may not:
 - a. Obstruct traffic (whether motorized or non-motorized).
 - b. Reduce any sideway or walkway designed for the passage of pedestrians to less than five feet in width.
 - c. Be located within ten feet of a fire hydrant or fire suppression connection.
 - d. Be located in a required parking space or required landscape area.
 - e. Be located in a street Setback or side Setback.
- (4) The site surrounding the dumpster must be maintained free of litter, debris, and other materials.
- (5) Dumpsters must be screened from view of all streets and public ways. Screening of dumpsters in alleys is not required. Signs are not allowed on the exterior of a screening fence or wall. Such screening must be at least six feet in height and must consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the Code Official.
- (6) Where the use of a dumpster is proposed, the location and intended screening demonstrating compliance with this Section must be included with the submittal of a site plan for a Building Permit or Certificate of Occupancy.

Sec. 50-164. Electric Vehicle Charging Stations and Electric Vehicle Parking Spaces.

Electric Vehicle Charging Stations and Electric Vehicle Parking Spaces are Accessory Structures that are allowed in all Zoning Districts by Electric Vehicle Charging

Station Permit. Requirements applicable to Electric Vehicle Charging Stations and Electric Vehicle Parking Spaces are set out in Division 11 of this Article.

Sec. 50-165. Home office use; prohibited business and commercial uses of property in the Residential Zoning Districts.

Use of a Dwelling as a home office is an Accessory Use that is allowed in the Residential Zoning Districts, subject to compliance with this Section. A Conditional Use Permit is not required.

(1) *Prohibition on business and commercial use.* Any business or commercial use of property within any residential Zoning District in this Chapter is prohibited unless such use is a permitted home office use or the casual and occasional use by resident minors under age 16 years selling lemonade, cookies or other similar items.

(2) *Permitted home office use allowed as accessory use and defined.* Permitted home office use shall be a permitted accessory use in any residential Zoning District in this Chapter. For purposes of this Section, permitted home office use shall mean an office activity in the main residential dwelling area and not in an outbuilding, carried on for gain by a resident, or an office activity for charitable, private foundation or other similar nonprofit purposes, provided:

- a. The use is limited solely to office use and, at all times, incidental and secondary to residential uses of the property;
- b. The use carried on for gain is operated by or employs in the residence only a resident or residents who are permanent full-time residents of the Dwelling Unit, and no other persons; or the use for charitable, private foundation or other similar nonprofit purposes is operated by or employs in the residence only a resident or residents who are permanent full-time residents of the Dwelling Unit, and no more than one nonresident of the Dwelling Unit;
- c. No nonresident employees, customers, or business invitees or guests shall visit the Dwelling Unit for business purposes, except:
 - i. Customers or business invitees or guests may visit on an infrequent and nonrecurrent basis for any permitted activity; or
 - ii. If the business purposes involves teaching or instruction of arts, music, physical fitness, or academics, customers or business invitees or guests may visit in groups of no more than two such persons at any one time with a maximum of six such persons per day;
- d. The use shall be located in no more than two rooms of the Dwelling Unit, which shall not be served by an entrance separate from the residence and such total office use shall be no more than 20 percent of the floor area of the residence excluding outbuildings from the calculation of floor area;
- e. Interior storage of materials shall only consist of office supplies;
- f. There shall be no change to the exterior of buildings or structures because of the use, and no outside appearance of a business use, including, but not limited to, parking, storage of business materials or equipment, signs, or

- lights;
 - g. The use involves no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with telephone, Internet or wireless communication, radio or television reception, detectable by neighboring residents;
 - h. The use is not for any of the following:
 - i. The care for infants or children;
 - ii. The boarding or breeding kennels for animals;
 - iii. Barbershop/beauty salon;
 - iv. Massage parlor;
 - v. Restaurant and other retail food service at the Dwelling Unit;
 - vi. Nursing facility or other health-related care serving patients at the Dwelling Unit;
 - vii. Hotel, bed and breakfast or other similar uses serving transient guests for compensation at the Dwelling Unit; or
 - viii. Church business office;
 - i. All vehicular traffic to and from the office use shall be limited in volume, type and frequency to what is normally associated with other residential uses in the residential zone district and business guests or invitees parking shall be restricted to on-site use of the driveway or on the same side of the street directly in front of the residential dwelling; and
 - j. The Dwelling Unit is occupied by a resident as a residential Dwelling Unit during non-business hours on the same day that the Dwelling Unit is used as an office as permitted under this Section.
- (3) *Administration and enforcement; penalties and violations.*
- a. Responsibility for the administration and enforcement of the provisions of this Section are assigned to the City Manager or his designee.
 - b. The City Manager or his designee in the exercise of reasonable discretion may inspect the premises if he deems it necessary in light of the documentation submitted or other information gathered about business or commercial use of property in residential Zoning Districts. If the City Manager should determine or believe that any use may be in violation of the provisions of this Section, the City Manager or his designee shall conduct such investigation as may be warranted by the circumstances including an inspection of the premises, and upon finding of a violation may direct that the violations be corrected by issuing one warning citation requiring correction within a period of 15 days. If such violations remain uncorrected upon the expiration of such 15 days, City Manager or his designee may file a complaint to be prosecuted by the City in Municipal Court.
 - c. Any person, firm or corporation who shall knowingly violate any provision of this Section shall, upon conviction, be subject to a fine of not more than \$450.00. Each day that a violation exists shall constitute a separate and distinct offense.

Sec. 50-166. Landscape Structures.

Landscape Structures are Accessory Structures that are allowed by in all Zoning Districts Conditional Use Permit. Landscape Structures are subject to the requirements of Section 50-158 and the following:

- (1) *Greenhouses and storage sheds.* Greenhouses and storage sheds may be constructed only in the Rear Yard or Side Yard, provided that any greenhouse or storage shed located in a Side Yard must not be visible from a Street or public way. The maximum height for a greenhouse or storage shed is 18 feet. Greenhouses and storage sheds must be located a minimum of 10 feet from the Main Building.
- (2) *Height and maximum dimension.* The allowed height and maximum dimension for each Landscape Structures will be based on its proposed location relative to the Setbacks applicable to the Main Building. Without the City's specific approval, Landscape Structures generally may not exceed 10 feet in height and may have no other dimension greater than 20 feet.
- (3) The total area of a lot covered by Landscape Structures on a Lot may not exceed 500 square feet or 20 percent of the total floor area of the Structures on the lot, whichever is greater.
- (4) *Exclusions from definition of Landscape Structure.* Architectural and landscape elements that are not affixed to the ground, that are easily movable, and that are used for decorative purposes, such as trellises, arbors, flower bed edging, bird feeders, bird baths, flowerpots, ornamental porch items, benches, and lawn library boxes generally do not require a Permit from the City provided that in each case, the architectural design and material used harmonize with the Main Building.
- (5) *Code Official determination.* The Code Official is authorized to determine whether any particular structure is a Landscape Structure requiring a Conditional Use Permit.

Sec. 50-167. Playground Equipment and tree houses.

Playground Equipment and tree houses are Accessory Structures that are allowed in the Residential Zoning Districts by Conditional Use Permit. Playground Equipment and tree houses are subject to Section 50-158, Article XIII, Chapter 8, and the following:

- (1) Where a Lot with a Main Building has been combined with an abutting or adjacent vacant Lot, the following additional regulations apply for playground equipment and tree houses:
 - a. *Additional Setback requirements for Playground Equipment and tree*

houses.

- i. For platted Lots, Playground Equipment and tree houses must be located behind the out-building limit line, or the building limit line closest to the rear wall of the Main Building, established on the recorded plat containing the lot where such Playground Equipment or tree house is to be located, and a distance from the side lot line equal to the applicable Main Building Side Yard Setback requirement.
 - ii. For unplatted parcels and platted parcels with no out-building limit line or building limit line, Playground Equipment and tree houses must be located behind a line running parallel to the rear property line, which line shall be located a distance equal to 25 percent of the average distance from the rear property line to the front property line. Such Playground Equipment must also be located a distance from the side lot line equal to the applicable Main Building Side Yard Setback requirement.
- b. *Screening for Playground Equipment.* Playground Equipment shall be screened from view from the public street to achieve a complete visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the Code Official. Any Playground Equipment exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the Playground Equipment, in addition to any walls that may be used to screen the Playground Equipment. Evergreen landscaping or other methods approved by the Code Official shall also be installed between the Playground Equipment and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.
- c. *Additional requirements for tree houses.*
 - i. *Developmental regulations.* Tree houses may not exceed 14 feet in height and may not exceed 100 square feet in area.
 - ii. *Screening requirements.* Tree houses shall be screened from view from the public street to achieve a visual barrier to the height provided herein. Such screening shall be at least six feet in height and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any tree houses exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the tree house, in addition to any walls that may be used

to screen the tree house. Evergreen landscaping or other methods approved by the city code official shall also be installed between the tree house and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.

Sec. 50-168. Portable Buildings.

Portable Buildings are Accessory Structures that are allowed in all Zoning Districts and that do not require a Permit. Portable Buildings are subject Section 50-158 (except that they do not require a Permit) and the following:

- (1) Portable Buildings may not be located in a Front Yard. Portable Buildings may be located only in a Rear Yard or Side Yard.
- (2) Portable Storage Buildings and Portage Storage Containers for temporary storage purposes are addressed in Section 8-65.
- (3) Any Building that is moveable but that is larger than a Portable Building requires a Conditional Use Permit.

Sec. 50-169. Sports Courts.

Sports Courts are Accessory Structures that are allowed only in the E-1 Estate District, the E-2 Urban Estate District, and the U-4 Church District by Conditional Use Permit. Sports Courts are prohibited in all other Zoning Districts.

Where allowed, Sports Courts are subject to Section 50-158 and the following:

(1) *Building Permit required.* In addition to the Conditional Use Permit required by Section 50-158, a Building Permit must be obtained for any hard surface area, slab, wall, fence, enclosure or other Structure, as required by this Chapter.

(2) *Landscaping required; Planting Plan.* Sports Courts must be screened from view from the street or any public way by landscaping. For installation of a Sports Court, the application for a Building Permit must be accompanied by a Planting Plan, as defined by Section 50-300 of this Code, which includes graphic and written criteria of plant placement, plant specification of type, sizing, and spacing and other features to comply with the provisions of this Section. The Planting Plan will be reviewed as part of the Building Permit review processes. A Building Permit will not be issued until the Planting Plan has been reviewed, approved, and made a part of the Building Permit file. The Planting Plan may be included in a site plan or other construction document.

(3) *Location and Setbacks.* Sports Courts may be constructed only in the Rear Yard or Side Yard of a Lot.

(4) *Fencing.* Any fence enclosing a Sports Court must comply with the requirements set out in Article VI, Chapter 8 of this Code as to height and appearance. Notwithstanding such requirements, the portion of any fence that exceed six feet in height must be open fencing.

(5) *Lighting.*

- a. *General.* Sports Court lighting must comply with the requirements set out in Division 9, Article II of this Chapter.
- b. *Hours of illumination.* Sports Courts lights may not be on at any time on any given day from one-half hour after sunset to one-half hour before sunrise.

(6) *No commercial use.* A Conditional Use Permit issued by the City for a Sports Court is for the sole use and enjoyment of the Property Owner, such owner's tenants and guests. A Sports Court may not be used for any commercial purpose.

(7) *Existing Sports Courts.* Sports Courts existing as of the effective date of this Division must comply with the provisions in this Section applicable to operation and maintenance of Sports Courts.

Sec. 50-170. Swimming Pools.

Swimming Pools are Accessory Structures that are allowed by Swimming Pool Permits in the Residential Zoning Districts. Where required by this Code, a Certificate of Approval from the Building Commission may also be required. Swimming Pools are subject to Section 50-158 and the requirements set out in Article VII, Chapter 8 of this Code.

Sec. 50-171. Enforcement.

The provisions of this Division shall be enforced by the Code Official, and it shall be unlawful for any person to interfere with or hinder the Code Official and his/her duly appointed representative(s) in the exercise of their duties under this Chapter. Notwithstanding any provisions contained herein to the contrary, the Code Official and his/her duly appointed representative(s) are hereby granted the authority to issue immediate citations to persons violating any provision of this Division.

Sec. 50-172. Nuisance declared; violation.

Any Accessory Building, Accessory Structure or Accessory Use maintained or existing in a condition that is prohibited by this Division is hereby declared to constitute a

nuisance. Any person who shall violate any of the provisions of this Division shall also be guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-17. The imposition of penalties hereby proscribed shall not preclude the City from instituting appropriate action to restrain, correct or abate a violation of this Section as provided for in this Code.

Section 3. Section 50-29 is hereby amended, with new language underlined, to wit:

Sec. 50-29. Setback requirements for corner Lots.

(b) Notwithstanding anything to the contrary contained in this Code:

- (4) Accessory Buildings, Accessory Structures, and Accessory Uses less than 14 feet in height shall comply with the Setback requirements of the Setback plan and Accessory Buildings, Accessory Structures, and Accessory Uses 14 feet or greater in height shall comply with the Setback requirements of the Setback plan plus one foot of additional Setback for each full foot of additional Building height greater than 14 feet.

Section 4. Section 50-47 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-47. E-1 Estate District.

(c) *Conditional uses.*

- (2) Accessory Buildings, Accessory Structures, and Accessory Uses which are subject to ~~Section 50-132~~ Division 6 of this Article and the following:
- a. No Accessory Building, Accessory Structure or Accessory Use shall be located in front of the Main Building, except fences, walls, and flag poles, as permitted in this Chapter; provided, where a Lot with a Main Building has been combined with an abutting or adjacent vacant Lot, ~~the following additional regulations shall apply:~~ (1) ~~I~~ in no case shall any Accessory Building, Accessory Structure or Accessory Use on what was the vacant Lot be located in front of the Main Building on any abutting or adjacent Lot.
 - (2) ~~Additional Setback requirements for Playground Equipment and tree houses.~~

- i. ~~For platted Lots, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind the out Building limit line, or the Building limit line closest to the rear wall of the Main Building, established on the recorded plat containing the Lot where such playground equipment or tree house is to be located, and a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~
 - ii. ~~For unplatted parcels and platted parcels with no out Building limit line or Building limit line, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind a line running parallel to the rear property line, which line shall be located a distance equal to 25 percent of the average distance from the rear property line to the front property line. Such playground equipment must also be located a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~
- (3) ~~Playground equipment, as defined in section 8-488 of this Code, shall be screened from view from the public street to achieve a complete visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any playground equipment exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the playground equipment, in addition to any walls that may be used to screen the playground equipment. Evergreen landscaping or other methods approved by the city code official shall also be installed between the playground equipment and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~
- (4) ~~Additional requirements for tree houses.~~
 - i. ~~*Developmental regulations.* Tree houses may not exceed 14 feet in height, and may not exceed 100 square feet in area.~~
 - ii. ~~*Screening requirements.* Tree houses shall be screened from view from the public street to achieve a visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any tree houses exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the tree house, in addition to any walls that may be used to screen the tree house. Evergreen landscaping or other methods approved by the city~~

~~code official shall also be installed between the tree house and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~

- b. No Accessory Building, Accessory Structure or Accessory Use shall exceed the height of the Main Building.
- c. Accessory Buildings, Accessory Structures, and Accessory Uses shall be included in the Lot Coverage calculations, unless expressly excluded by Division 6 of this Article, and are subject to the development regulations of this District.
- d. Accessory Buildings, Accessory Structures, and Accessory Uses shall be a minimum of ten feet from the Main Building.

(2) Accessory Structure to be used as a guard shack associated with a private country club or golf course.

(d) *Uses subject to review.*

- (1) Private club, which includes a country club and golf course, and all associated Buildings and Structures used in connection with such private club, including Sports Courts.

(2) [Reserved.]

(e) *Development regulations.*

(1) *General.*

- a. In no case shall a Main Building, Secondary Building, or Accessory Building, Accessory Structure or Accessory Use be located over a utility easement.

(3) *Side Yard Setback.*

- b. Accessory Buildings, Accessory Structures or Accessory Uses: less than 14 feet in height: Six feet;
- c. Accessory Buildings, Accessory Structures or Accessory Uses 14 feet or more in height: Six feet, plus one foot for each full foot of additional Building Height greater than 14 feet;

(4) *Rear Yard Setback.*

- b. Accessory Buildings, Accessory Structures or Accessory Uses less than 14 feet in height: Ten feet.
- c. Accessory Buildings, Accessory Structures or Accessory Uses 14 feet or more in height: Ten feet, plus one foot for each full foot of additional ~~Building~~ height greater than 14 feet.

(8) *Maximum ~~Building~~ Height.*

- a. Accessory Buildings, Accessory Structures or Accessory Uses: 25 feet.

Section 5. Section 50-48 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-48. E-2 Urban Estate District.

(c) *Conditional uses.*

- (2) Accessory Buildings, Accessory Structures, and Accessory Uses which are subject to ~~Section 50-132~~ Division 6 of this Article and the following:

- a. No Accessory Building, Accessory Structure or Accessory Use shall be located in front of the Main Building, except fences, walls, and flag poles, as permitted in this Chapter; provided, where a Lot with a Main Building has been combined with an abutting or adjacent vacant Lot, ~~the following additional regulations shall apply:~~ ~~(1) I~~ in no case shall any Accessory Building, Accessory Structure or Accessory Use on what was the vacant Lot be located in front of the Main Building on any abutting or adjacent Lot.

- ~~(2) Additional Setback requirements for Playground Equipment and tree houses.~~

- i. ~~For platted Lots, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind the out Building limit line, or the Building limit line closest to the rear wall of the Main Building, established on the recorded plat containing the Lot where such playground equipment or tree house is to be located, and a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~
 - ii. ~~For unplatted parcels and platted parcels with no out Building limit line or Building limit line, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind a line running parallel to the rear property line, which line shall be located a distance equal to 25 percent of the average distance from the rear property line to the front property line. Such playground equipment must also be located a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~
- (3) ~~Playground equipment, as defined in section 8-488 of this Code, shall be screened from view from the public street to achieve a complete visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any playground equipment exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the playground equipment, in addition to any walls that may be used to screen the playground equipment. Evergreen landscaping or other methods approved by the city code official shall also be installed between the playground equipment and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~
- (4) ~~Additional requirements for tree houses.~~
- i. ~~*Developmental regulations.* Tree houses may not exceed 14 feet in height, and may not exceed 100 square feet in area.~~
 - ii. ~~*Screening requirements.* Tree houses shall be screened from view from the public street to achieve a visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any tree houses exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the tree house, in addition to any walls that may be used to screen the tree house. Evergreen landscaping or other methods approved by the city~~

~~code official shall also be installed between the tree house and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~

- b. No Accessory Building, Accessory Structure or Accessory Use shall exceed the height of the Main Building.
- c. Accessory Buildings, Accessory Structures, and Accessory Uses shall be included in the Lot Coverage calculations, unless expressly excluded by Division 6 of this Article, and are subject to the development regulations of this District.
- d. Accessory Buildings, Accessory Structures, and Accessory Uses shall be a minimum of ten feet from the Main Building.

(e) *Development regulations.*

(1) *General.*

- a. In no case shall a Main Building, Secondary Building, or Accessory Building, Accessory Structure or Accessory Use be located over a utility easement.

(3) *Side Yard Setback.*

- b. Accessory Buildings, Accessory Structures or Accessory Uses: less than 14 feet in height: Six feet;
- c. Accessory Buildings, Accessory Structures or Accessory Uses 14 feet or more in height: Six feet, plus one foot for each full foot of additional Building Height greater than 14 feet;

(4) *Rear Yard Setback.*

- b. Accessory Buildings, Accessory Structures or Accessory Uses less than

14 feet in height: Ten feet.

- c. Accessory Buildings, Accessory Structures or Accessory Uses 14 feet or more in height: Ten feet, plus one foot for each full foot of additional ~~Building~~ height greater than 14 feet.

(8) *Maximum ~~Building~~ Height.*

- a. Accessory Buildings, Accessory Structures or Accessory Uses: 25 feet.

Section 6. Section 50-49 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-49. R-1-75 Single-Family Residential District.

(c) *Conditional uses.*

- (2) Accessory Buildings, Accessory Structures, and Accessory Uses which are subject to ~~Section 50-132~~ Division 6 of this Article and the following:

- a. No Accessory Building, Accessory Structure or Accessory Use shall be located in front of the Main Building, except fences, walls, ~~and~~ flag poles, and fountains not exceeding 56 inches in height, as permitted in this Chapter; provided, where a Lot with a Main Building has been combined with an abutting or adjacent vacant Lot, ~~the following additional regulations shall apply: (1) I~~ in no case shall any Accessory Building, Accessory Structure or Accessory Use on what was the vacant Lot be located in front of the Main Building on any abutting or adjacent Lot.

~~(2) Additional Setback requirements for Playground Equipment and tree houses.~~

- i. ~~For platted Lots, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind the out Building limit line, or the Building limit line closest to the rear wall of the Main Building, established on the recorded plat containing the Lot where such playground equipment or tree house is to be located, and a distance from the side Lot line~~

- equal to the applicable Main Building Side Yard Setback requirement.
- ii. ~~For unplatted parcels and platted parcels with no out Building limit line or Building limit line, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind a line running parallel to the rear property line, which line shall be located a distance equal to 25 percent of the average distance from the rear property line to the front property line. Such playground equipment must also be located a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~
- (3) ~~Playground equipment, as defined in section 8-488 of this Code, shall be screened from view from the public street to achieve a complete visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any playground equipment exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the playground equipment, in addition to any walls that may be used to screen the playground equipment. Evergreen landscaping or other methods approved by the city code official shall also be installed between the playground equipment and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~
- (4) ~~Additional requirements for tree houses.~~
- i. ~~*Developmental regulations.* Tree houses may not exceed 14 feet in height, and may not exceed 100 square feet in area.~~
 - ii. ~~*Screening requirements.* Tree houses shall be screened from view from the public street to achieve a visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any tree houses exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the tree house, in addition to any walls that may be used to screen the tree house. Evergreen landscaping or other methods approved by the city code official shall also be installed between the tree house and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~

- b. No Accessory Building, Accessory Structure or Accessory Use shall exceed the height of the Main Building.
- c. Accessory Buildings, Accessory Structures, and Accessory Uses shall be included in the Lot Coverage calculations, unless expressly excluded by Division 6 of this Article, and are subject to the development regulations of this District.
- d. No Accessory Building, Accessory Structure or Accessory Use shall have living or conditioned space above the ten-foot plate height.

(e) *Development regulations.*

(1) *General.*

- a. In no case shall a Main Building, ~~or Accessory Building~~, Accessory Structure or Accessory Use be located over a utility easement.

(3) *Side Yard Setback.*

- b. Accessory Buildings, Accessory Structures or Accessory Uses: less than 14 feet in height: Six feet;
- c. Accessory Buildings, Accessory Structures or Accessory Uses 14 feet or more in height: Six feet, plus one foot for each full foot of additional ~~Building~~ height greater than 14 feet;

(4) *Rear Yard Setback.*

- b. Accessory Buildings, Accessory Structures or Accessory Uses shall be set back as follows:
 1. Accessory Buildings, Accessory Structures, and Accessory Uses less than 14 feet in height: Ten feet;
 2. Accessory Buildings, Accessory Structures, and Accessory Uses 14 feet or more in height. Ten feet plus two feet for each full foot of additional ~~Building~~ height greater than 14 feet.

(8) *Maximum ~~Building~~ Height.*

- a. Accessory Buildings, Accessory Structures or Accessory Uses: 22 feet.
 - 1. Accessory Buildings will have a ten-foot maximum plate height measured from finished floor.
 - 2. The finished floor shall be permitted to be one foot above undisturbed surrounding grade. Anything higher than one foot shall be subtracted from the ten-foot plate height.
- b. No build envelope. No Accessory Building, Accessory Structure or Accessory Use is permitted within “no build” areas created as follows:
 - 1. Establish a point at the side, and Rear Yard Setbacks, at the finished floor level then move vertically up ten feet to points “A.”
 - 2. At points “A” a 45 degree angle will be drawn to the point where it intersects with the maximum ~~Building~~ height which is point “B.”
 - 3. Connect points “A” and “B” to delineate a “no build” area on every side of the Structure.

- (13) *Separation of Accessory Buildings, Accessory Structures, and Accessory Uses from Main Building.* Accessory Buildings, Accessory Structures, and Accessory Uses must have a minimum separation of ten feet from the Main Building.

Section 7. Section 50-50 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-50. R-1-60 Single-Family Residential District.

(c) *Conditional uses.*

- (2) Accessory Buildings, Accessory Structures, and Accessory Uses which are subject to ~~Section 50-132~~ Division 6 of this Article and the following:
 - a. No Accessory Building, Accessory Structure or Accessory Use shall be

located in front of the Main Building, except fences, walls, and flag poles, and fountains not exceeding 56 inches in height, as permitted in this Chapter; provided, where a Lot with a Main Building has been combined with an abutting or adjacent vacant Lot, ~~the following additional regulations shall apply:~~ (1) ~~I~~ in no case shall any Accessory Building, Accessory Structure or Accessory Use on what was the vacant Lot be located in front of the Main Building on any abutting or adjacent Lot.

~~(2) Additional Setback requirements for Playground Equipment and tree houses:~~

- ~~i. For platted Lots, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind the out Building limit line, or the Building limit line closest to the rear wall of the Main Building, established on the recorded plat containing the Lot where such playground equipment or tree house is to be located, and a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~
- ~~ii. For unplatted parcels and platted parcels with no out Building limit line or Building limit line, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind a line running parallel to the rear property line, which line shall be located a distance equal to 25 percent of the average distance from the rear property line to the front property line. Such playground equipment must also be located a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~

~~(3) Playground equipment, as defined in section 8-488 of this Code, shall be screened from view from the public street to achieve a complete visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any playground equipment exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the playground equipment, in addition to any walls that may be used to screen the playground equipment. Evergreen landscaping or other methods approved by the city code official shall also be installed between the playground equipment and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~

~~(4) Additional requirements for tree houses.~~

- ~~i. *Developmental regulations.* Tree houses may not exceed 14 feet in height, and may not exceed 100 square feet in area.~~

ii. ~~Screening requirements.~~ Tree houses shall be screened from view from the public street to achieve a visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any tree houses exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the tree house, in addition to any walls that may be used to screen the tree house. Evergreen landscaping or other methods approved by the city code official shall also be installed between the tree house and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.

- b. No Accessory Building, Accessory Structure or Accessory Use shall exceed the height of the Main Building.
- c. Accessory Buildings, Accessory Structures, and Accessory Uses shall be included in the Lot Coverage calculations, unless expressly excluded by Division 6 of this Article, and are subject to the development regulations of this District.
- c. No Accessory Building, Accessory Structure or Accessory Use shall have living or conditioned space above the ten-foot plate height.

(e) *Development regulations.*

(1) *General.*

- a. In no case shall a Main Building, ~~or Accessory Building,~~ Accessory Structure or Accessory Use be located over a utility easement.

(3) *Side Yard Setback.*

- b. Accessory Buildings, Accessory Structures or Accessory Uses: less than 14 feet in height: Six feet;
- c. Accessory Buildings, Accessory Structures or Accessory Uses 14 feet or more in height: Six feet, plus one foot for each full foot of additional

~~Building~~ height greater than 14 feet;

(4) *Rear Yard Setback.*

b. Accessory Buildings, Accessory Structures or Accessory Uses shall be set back as follows:

1. Accessory Buildings, Accessory Structures, and Accessory Uses less than 14 feet in height: Ten feet;
2. Accessory Buildings, Accessory Structures, and Accessory Uses 14 feet or more in height. Ten feet plus two feet for each full foot of additional ~~Building~~ height greater than 14 feet.

(8) *Maximum ~~Building~~ Height.*

a. Accessory Buildings, Accessory Structures or Accessory Uses: 22 feet.

1. Accessory Buildings will have a ten-foot maximum plate height measured from finished floor.
2. The finished floor shall be permitted to be one foot above undisturbed surrounding grade. Anything higher than one foot shall be subtracted from the ten-foot plate height.

b. No build envelope. No Accessory Building, Accessory Structure or Accessory Use is permitted within “no build” areas created as follows:

1. Establish a point at the side, and Rear Yard Setbacks, at the finished floor level then move vertically up ten feet to points “A.”
2. At points “A” a 45 degree angle will be drawn to the point where it intersects with the maximum ~~Building~~ height which is point “B.”
3. Connect points “A” and “B” to delineate a “no build” area on every side of the Structure.

- (12) Separation of Accessory Buildings, Accessory Structures, and Accessory Uses from Main Building. Accessory Buildings, Accessory Structures, and Accessory Uses must have a minimum separation of ten feet from the Main Building.

Section 8. Section 50-51 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-51. R-2 Two-Family Residential District.

(c) *Conditional uses.*

- (1) ~~Secondary Buildings, subject to the following:~~
- a. ~~A detached garage which exceeds a 450 square foot Building footprint or a 20 foot Building height shall be considered a secondary Building.~~
 - b. ~~Secondary Buildings shall be subject to the development regulations for Main Buildings.~~
- (2) Accessory Buildings, Accessory Structures, and Accessory Uses which are subject to ~~section 50-132~~Division 6 of this Article and the following:

No Accessory Building, Accessory Structure or Accessory Use shall be located in front of the Main Building, except fences, walls, and flag poles as permitted in this Chapter provided, where a Lot with a Main Building has been combined with an abutting or adjacent vacant Lot, ~~the following additional regulations shall apply:~~ (1) ~~I~~ in no case shall any Accessory Building, Accessory Structure or Accessory Use on what was the vacant Lot be located in front of the Main Building on any abutting or adjacent Lot.

- (2) ~~Additional Setback requirements for Playground Equipment and tree houses:~~
- i. ~~For platted Lots, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind the out Building limit line, or the Building limit line closest to the rear wall of the Main Building, established on the recorded plat containing the Lot where such playground equipment or tree house is to be located, and a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~
 - ii. ~~For unplatted parcels and platted parcels with no out Building limit line or Building limit line, playground equipment, as defined in section 8-488 of this Code, and tree houses must be~~

located behind a line running parallel to the rear property line, which line shall be located a distance equal to 25 percent of the average distance from the rear property line to the front property line. Such playground equipment must also be located a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.

- (3) ~~Playground equipment, as defined in section 8-488 of this Code, shall be screened from view from the public street to achieve a complete visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any playground equipment exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the playground equipment, in addition to any walls that may be used to screen the playground equipment. Evergreen landscaping or other methods approved by the city code official shall also be installed between the playground equipment and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~

- (4) ~~Additional requirements for tree houses.~~

- i. ~~*Developmental regulations.* Tree houses may not exceed 14 feet in height, and may not exceed 100 square feet in area.~~
- ii. ~~*Screening requirements.* Tree houses shall be screened from view from the public street to achieve a visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any tree houses exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the tree house, in addition to any walls that may be used to screen the tree house. Evergreen landscaping or other methods approved by the city code official shall also be installed between the tree house and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~

- b. No Accessory Building, Accessory Structure or Accessory Use shall exceed the height of the Main Building.
- c. Accessory Buildings, Accessory Structures, and Accessory Uses shall be

included in the Lot Coverage calculations, unless expressly excluded by Division 6 of this Article, and are subject to the development regulations of this District.

(d) *Uses subject to review.*

- (1) Public or private recreation facilities.
- (2) Secondary Buildings, subject to the following:
 - a. A detached garage that exceeds a 450-square-foot Building footprint or a 20-foot Building height shall be considered a Secondary Building.
 - b. Secondary Buildings shall be subject to the development regulations for Main Buildings.

(e) *Development regulations.*

- (1) *General.*
 - a. In no case shall a ~~main or Accessory Building~~ Main Building, Secondary Building, Accessory Building, Accessory Structure or Accessory Use be located over a utility Easement.

- (3) *Side Yard Setback.* The Main Building, Secondary Buildings, and Accessory Buildings, Accessory Structures, and Accessory Uses shall have a minimum Setback of six feet from all side property lines except as follows:
 - a. Lots abutting a street shall have a Setback of 15 feet on the side abutting the street.
 - b. Chimneys or fireplaces shall be permitted to encroach two feet into the required Side Yard on one side of the Building only.
- (4) *Rear Yard Setback.*

- c. Accessory Buildings, Accessory Structures, and Accessory Uses shall be set back from the rear property line a distance of not less than ten feet, provided that, where an alley or drive along the rear of the Lot at least 20 feet in width provides access to the accessory Building, Accessory Structure or Accessory Use, there shall be no Rear Yard Setback

requirement for the Accessory Building, Accessory Structure or Accessory Use;

Section 9. Section 50-52 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-52. R-3 Multiple-Family Residential District.

(c) *Conditional uses.*

(1) Secondary Buildings, subject to the following:

- a. ~~A detached garage which exceeds a 450-square foot Building footprint or a 20-foot Building height shall be considered a secondary Building.~~
- b. ~~Secondary Buildings shall be subject to the development regulations for Main Buildings.~~

Accessory Buildings, Accessory Structures, and Accessory Uses which are subject to ~~section 50-132~~Division 6 of this Article and the following:

No Accessory Building, Accessory Structure or Accessory Use shall be located in front of the Main Building, except fences, walls, and flag poles as permitted in this Chapter provided, where a Lot with a Main Building has been combined with an abutting or adjacent vacant Lot, ~~the following additional regulations shall apply: (1)~~ in no case shall any Accessory Building, Accessory Structure or Accessory Use on what was the vacant Lot be located in front of the Main Building on any abutting or adjacent Lot.

~~(2) Additional Setback requirements for Playground Equipment and tree houses.~~

- i. ~~For platted Lots, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind the out-Building limit line, or the Building limit line closest to the rear wall of the Main Building, established on the recorded plat containing the Lot where such playground equipment or tree house is to be located, and a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~

- ii. ~~For unplatted parcels and platted parcels with no out-Building limit line or Building limit line, playground equipment, as defined in section 8-488 of this Code, and tree houses must be located behind a line running parallel to the rear property line, which line shall be located a distance equal to 25 percent of the average distance from the rear property line to the front property line. Such playground equipment must also be located a distance from the side Lot line equal to the applicable Main Building Side Yard Setback requirement.~~
- (3) ~~Playground equipment, as defined in section 8-488 of this Code, shall be screened from view from the public street to achieve a complete visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any playground equipment exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the playground equipment, in addition to any walls that may be used to screen the playground equipment. Evergreen landscaping or other methods approved by the city code official shall also be installed between the playground equipment and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~
- (4) ~~Additional requirements for tree houses.~~
 - i. ~~*Developmental regulations.* Tree houses may not exceed 14 feet in height, and may not exceed 100 square feet in area.~~
 - ii. ~~*Screening requirements.* Tree houses shall be screened from view from the public street to achieve a visual barrier to the height provided herein. Such screening shall be at least six feet in height, and shall consist of a combination of stone or masonry walls and evergreen landscaping, berms or other methods approved by the city code official. Any tree houses exceeding eight feet in height must be completely screened with evergreen landscaping to the height of the tree house, in addition to any walls that may be used to screen the tree house. Evergreen landscaping or other methods approved by the city code official shall also be installed between the tree house and any adjacent or abutting property owners to provide a noise barrier. Except where sidewalks, evergreen landscaping, or other landscaping approved by the code official exist, lawn quality natural grass must cover the entire property between the public street and the wall facing the street.~~

- b. No Accessory Building, Accessory Structure or Accessory Use shall exceed the height of the Main Building.
- c. Accessory Buildings, Accessory Structures, and Accessory Uses shall be included in the Lot Coverage calculations, unless expressly excluded by Division 6 of this Article, and are subject to the development regulations of this District.

(d) *Uses subject to review.*

- (1) Private recreation facilities related to a permitted project, when such facilities are located outside of the envelope created by the existing primary and secondary Structures.
- (2) Congregate care housing or convalescent homes, provided that such proposed project sites shall have direct access to an arterial street.
- (2) Gated communities with controlled access through a security checkpoint or remote controlled gates.

(3) Secondary Buildings subject to the following:
which

- a. A detached garage that exceeds a 450-square-foot Building footprint or a 20-foot Building height shall be considered a Secondary Building.
- b. Secondary Buildings shall be subject to the development regulations for Main Buildings.

(e) *Development regulations.*

- (1) *General.* Building Setback and Lot Coverage requirements shall conform to all platted Setback and Building lines as specified in section 8-4 or as follows, whichever is greater; provided that in no case shall a Main Building, Secondary Building, Accessory Building, Accessory Structure or Accessory Use be located over a utility easement.

- (3) *Side Yard Setback.* The Main Building, Secondary Buildings, ~~and~~ Accessory Buildings, Accessory Structures, and Accessory Uses shall have a minimum set back of ten feet from all side property lines, except as follows: a Lot abutting a street shall have a Setback of 15 feet on the side abutting the street.

- (4) *Rear Yard Setback.*

- b. Accessory Buildings, Accessory Structures, and Accessory Uses shall be set back from the rear property line a distance of not less than ten feet, provided that, where an alley or drive along the rear of the Lot of at least 20 feet in width provides access to the Accessory Building, Accessory Structure or Accessory Use, there shall be no Rear Yard Setback requirement for the Accessory Building, Accessory Structure or Accessory Use.

- (7) *Coverage.* Main Buildings, Secondary Buildings, ~~and~~ Accessory Buildings, Accessory Structures, and Accessory Uses shall cover no more than 80 percent of the Lot area within the platted or city-required Setback lines, whichever Setback is greater.

Section 10. Section 50-78 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-78. U-4 Church District.

(c) *Conditional uses.*

- ~~(1) Secondary Buildings, subject to the Development Regulations for Main Buildings. A Building which exceeds 650 square feet in floor area shall be considered a secondary Building.~~

- (3) Accessory Buildings, Accessory Structures, and Accessory Uses which are subject to ~~section 50-130~~ Division 6 of this Article and the following: Accessory Buildings, Accessory Structures, and Accessory Uses shall be included in the Lot Coverage calculations, unless expressly excluded by Division 6 of this Article, and are subject to the development regulations of this District.

(d) *Uses subject to review.*

- (1) ~~Accessory Buildings and uses, including, but not limited to, storage of church vehicles such as buses.~~ Secondary Buildings subject to the following:
- a. Secondary Buildings shall be subject to the development regulations for Main Buildings.
 - b. A Building which exceeds 650 square feet in floor area shall be considered

a Secondary Building.

(e) *Development regulations.*

(1) *General.*

- a. In no case shall a ~~main or Accessory Building~~ Main Building, Secondary Building, Accessory Building, Accessory Structure or Accessory Use be located over a utility Easement.

(3) *Side Yard Setback.*

- c. Church Building standards where the Side Yard line abuts a residentially zoned and developed district not under church ownership:

1. Secondary Buildings, ~~and~~ Accessory Buildings, Accessory Structures, and Accessory Uses 25 feet or less in height shall have a ten-foot Setback;
2. Secondary Buildings, ~~and~~ Accessory Buildings, Accessory Structures, and Accessory Uses over 25 feet in height shall have a 20-foot Setback.

- d. Where the Side Yard abuts another church or a property in a commercial Zoning District, Secondary Buildings, Accessory Buildings, Accessory Structures, and Accessory Uses shall have a ten-foot Setback.

- (4) *Rear Yard Setback.* All Main Buildings, Secondary Buildings, Accessory Buildings, Accessory Structures, and Accessory Uses shall be set back from the rear property line a distance of not less than 25 feet.

Section 11. Section 50-79 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-79. C-1 Office District.

(c) *Conditional uses.*

- (1) ~~Secondary Buildings, subject to the development regulations for Main Buildings.~~

~~(3 2)~~ Accessory Buildings, Accessory Structures, and Accessory uses which are subject to Division 6 of this Article. ~~and Structures, subject to section 50-132.~~

(d) *Uses subject to review.*

~~(3)~~ ~~Accessory Buildings, Structures, and uses customarily incidental to the uses listed in this Section when located on the same Lot.~~ Secondary Buildings, which are subject to the Development Regulations for Main Buildings.

(e) *Development regulations.*

(1) *General.*

- a. In no case shall a Main Building, Secondary Building, or Accessory Building, Accessory Structure or Accessory Use be located over a utility easement.

Section 12. Section 50-80 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-80. C-2 Retail Business District.

(c) *Conditional uses.*

- ~~(1) Secondary Buildings, subject to the development regulations for Main Buildings.~~
- (2) Accessory Buildings, Accessory Structures, and Accessory Uses customarily incidental to the uses listed in this Section when located on the same Lot.

(d) *Uses subject to review.*

- (5) Secondary Buildings, which are subject to the Development Regulations for Main Buildings.

(f) *Development regulations.*

- (1) *General.* Building Setback and Lot Coverage requirements shall conform to all platted Setback and Building lines as specified in section 8-4 or as follows, whichever is greater; provided that:

- a. In no case shall a Main Building, Secondary Building, ~~or Accessory Building, Accessory Structure or Accessory Use~~ be located over a utility easement.

Section 13. Section 50-126 is hereby deleted in its entirety.

Section 14. Section 50-136 is hereby deleted in its entirety.

Section 15. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 16. The provisions of this ordinance are severable and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

Section 17. EMERGENCY SECTION. WHEREAS, in the judgment of the Council it is necessary for the preservation of the peace, health, welfare and safety of the City of Nichols Hills, Oklahoma, and of the inhabitants thereof that the provisions of this ordinance be put into full force and effect immediately, and therefore an emergency is hereby declared to exist by reason whereof this ordinance shall take effect and be in full force from and after its passage as provided by law.

PASSED by the Council of the City of Nichols Hills, Oklahoma, on the _____ day of _____, 2023.

APPROVED by the Mayor of the City of Nichols Hills, Oklahoma, on the _____ day of _____, 2023.

ATTEST:

Mayor

City Clerk

Reviewed as to Form and Legality:

City Attorney