

## **22.58 Accessory Use Regulations**

### 1. GENERAL REGULATIONS.

- a. Accessory uses are permitted in the districts as specified in this Chapter. An accessory use building permit shall be required where specified in this Chapter. Accessory uses are permitted if there is an existing permitted principal structure or a permitted principal structure is under construction. The use and/or location requirements provided for in this Chapter may be modified for accessory uses as specifically provided herein.
- b. (Am. #38-02) Accessory uses and detached accessory structures shall be permitted in the rear yard only, not in a street yard or side yard, unless otherwise specified. Accessory structures shall not occupy more than twenty percent (20%) of the rear yard in all districts except the business and manufacturing districts where such uses and structures shall not occupy more than fifty percent (50%) of the rear yard area. When permitted in the side or front yard, accessory structures shall not occupy more than ten percent (10%) of the yard area.

### 2. SPECIFIC REGULATIONS.

- a. Garages, garden and utility sheds, and gazebos are permitted upon the issuance of a building permit, provided that:
  - (1) (Am. #61-02) The nearest point of any accessory building shall be located no closer than five (5) feet from the permitted principal structure; shall be placed on a pad of concrete, asphalt, wood, or metal; shall be located so that the foundation is not closer than five (5) feet to a lot line; and shall not exceed the height restrictions specified in the applicable zoning district and shall not exceed the height of the principal structure. Any accessory building for motor vehicles shall be placed on a concrete floor or pad. Accessory buildings shall be set back at least five (5) feet from an alley, except if vehicular access to the lot is from the alley, accessory buildings shall be set back at least eight (8) feet from the alley.
  - (2) (Am. #61-02) No more than one accessory building shall be erected on a lot in any residential district when the principal dwelling has an attached garage. No more than two accessory buildings shall be erected on a lot in any residential district when there is no attached garage. When two accessory buildings are permitted, one structure shall not exceed seven hundred twenty (720) square feet in area when accessory to a single-family dwelling, and shall not exceed one thousand one hundred and fifty two (1152) square feet when accessory to a two-family or larger dwelling; and the second structure shall not exceed one hundred fifty (150) square feet in area. When only one accessory building is permitted, it shall not exceed one hundred fifty (150) square feet in area. The Plan Commission may, at its discretion, permit more than two accessory structures when it determines that more than two (2) such structures are necessary to the efficient development of the property and that sufficient, usable open space areas remain on the lot.
  - (3) A gazebo connected to a deck which is attached to the permitted principal structure shall be located no closer than three (3) feet to a lot line, but not in the minimum side yard when located adjacent to the wall of a permitted principal structure, or within fifty (50) feet of the front lot line, except where adjacent to an alley or a street side lot line.
  - (4) (Cr. #15-14) The roofs of all accessory buildings shall be covered with asphalt shingles, wood or shake shingles, standing seam metal, aluminum or other metal,

tile roofing, or slate roofing. Membrane structures are only permitted as a temporary use subject to Section 22.64 of the Zoning Ordinance. Any proposals to use membrane structures in excess of 30 days shall require Plan Commission approval.

(5) (Cr. #15-14) The exterior walls of accessory structures shall be covered by aluminum or metal panels, cement fiber, wood, wood clapboards, wood shakes, vinyl, steel or aluminum beveled siding, brick, stone or other masonry-type veneer materials or other similar materials. Membrane structures are only permitted as a temporary use subject to Section 22.64 of the Zoning Ordinance. Any proposals to use membrane structures in excess of 30 days shall require Plan Commission approval.

b. Patios, constructed at or below yard grade, may be erected, without a building permit, adjacent to the permitted principal structure, and shall be located not closer than three (3) feet to a lot line.

c. Decks which are constructed twelve (12) inches or more above lot grade, and which are attached to or closer than ten (10) feet to a permitted principal structure, shall be located not closer to a side lot line than the required side yard requirements for the district in which they are located and shall require the issuance of a building permit. Decks may project a distance not to exceed ten (10) feet into any required rear yard. Freestanding decks or decks surrounding private swimming pools separated from the principal structure shall be located at least ten (10) feet from the permitted principal structure and shall be located not closer than three (3) feet to a lot line. All decks which are constructed less than twelve (12) inches above yard grade shall be located not closer than three (3) feet to a lot line.

d. Playhouses and children's swing sets are permitted without a building permit, provided that such uses shall be located not closer than three (3) feet from a lot line.

e. Central air conditioning compressors are permitted in the rear yard or the side yard without a building permit, provided that the compressor shall be located at least three (3) feet from a lot line. Where it is determined that it is impractical to locate a central air conditioning compressor in the side or rear yard, the building inspector may permit placement in the street yard provided that the air conditioning compressor is screened from view.

f. Accessory pet kennels may be placed in the rear yard of any residential district upon the issuance of a building permit provided that the kennel is located not closer than five (5) feet from a lot line; that the kennel is placed on a pad of concrete, asphalt, or coarse stone or gravel; that the kennel is enclosed by a fence not less than four (4) feet nor more than six (6) feet in height; and that no pet kennel shall exceed three hundred (300) square feet in area.

g. Chicken keeping enclosures may be constructed upon the issuance of a Chicken Keeping Permit, subject to all applicable regulations in Municipal Code Section 33.07 and in this Chapter, and provided that:

(1) Chicken enclosures shall be located so the nearest point is no closer than 5 feet from the permitted principal structure and no closer than 5 feet from any lot line.

(2) Chicken enclosures shall not exceed ten feet in height.

f.(3) Chicken enclosures must be used for chicken keeping purposes only and may not be combined with or attached to other accessory uses or structures.

g-h. One (1) accessory compost bin, not to exceed six (6) feet in height is permitted without a building permit, provided that such use shall be located at least three (3) feet

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from a lot line.

[h.i.](#) Private swimming pools are permitted, upon the issuance of a building permit, provided that:

- (1) (Rep. & Rec. #38-02) (Am. #58-03) Private swimming pools shall be walled or fenced by a detached wall or fence at least four (4) feet high and no closer to the perimeter walls of the pool than four (4) feet at any point. Such wall or fence must be constructed so as to prevent uncontrolled access by children from the street or adjacent properties. All fence openings or points of entry into the pool area

enclosure shall be equipped with gates that have self-closing and self-latching devices placed at the top of the gate. (See Sec. 11.38 of this Code for other requirements regarding swimming pool locks.)

- (2) (Rep. & Recr. #38-02) Properties containing private swimming pools are not subject to subsection 1. if the entire property upon which the swimming pool is located is enclosed by a detached wall or fence that fully complies with that subsection.
- (3) (Rep. & Recr. #38-02) Properties containing private swimming pools are not subject to subsection 1. if the private swimming pool is an above-ground swimming pool with a deck, the bottom of said deck to be at least 48 inches above grade level and extended out perpendicular from the sides of the pool. Such deck shall have, on its outer edges, a fence at least thirty- two (32) inches in height above such deck level, and be of a type which will prevent uncontrolled access by children from the street or adjacent properties. Such fence and deck shall have a ladder at the opening of the fence, with a gate which is equipped with self-closing and self-latching devices placed at the top of the gate.
- (4) (Am. #38-02) Swimming pools shall not be constructed directly under or over electric lines or within five (5) feet of underground lines or ten (10) feet of overhead lines. All electrical connections to a swimming pool shall comply with all local and state electrical codes.
- (5) No water drained from swimming pools shall be discharged onto adjacent properties without written consent of the owner, or into a municipal sanitary sewerage system, or directly into a navigable body of water;
- (6) Equipment shall be provided for the disinfection of all pool water. No gaseous chlorination shall be permitted.
- (7) Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall be located not closer than twenty (20) feet to a lot line.
- (8) There shall be an unobstructed areaway around all pools of at least three (3) feet in width.
- (9) No private swimming pool, including areaways surrounding the pool, shall be located closer than ten (10) feet to a lot line.
- (10) Private swimming pools, together with other accessory structures regulated by this section shall not occupy more than fifty percent (50%) of the rear yard area.

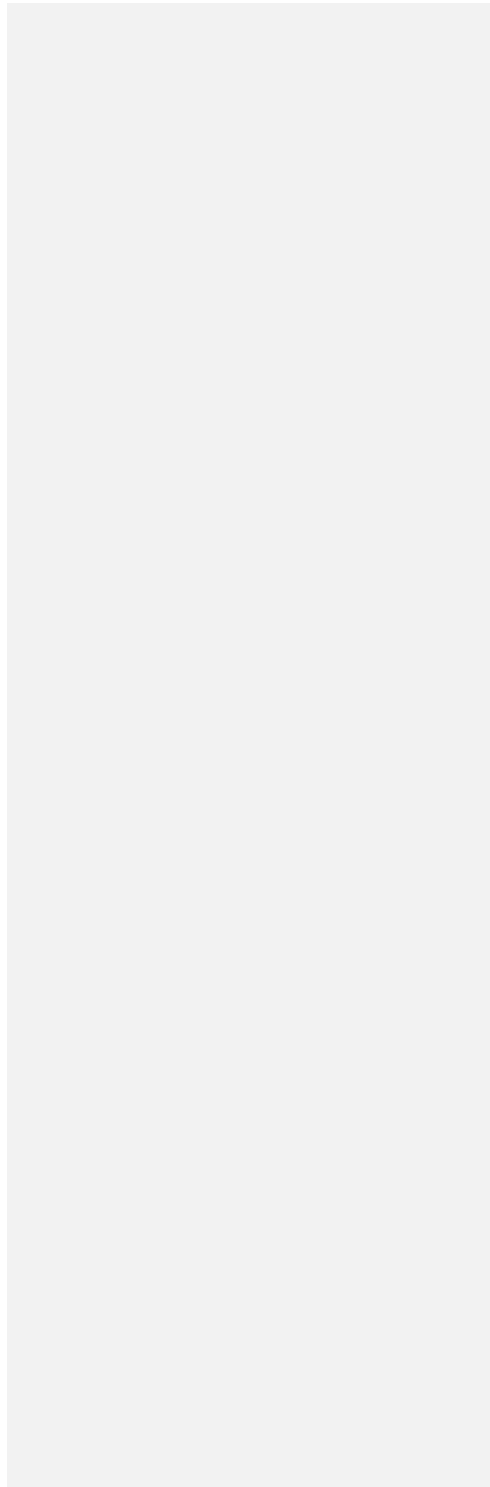
h. Rummage Sales may be conducted in any district provided that the rummage sale does not exceed four (4) consecutive days in length and is not conducted more often than three

(3) times per year. Rummage sales do not require the issuance of a building permit.

j.k. (Am. #6-17) Fences are a permitted accessory use in any district. All fences are subject to the following rules:

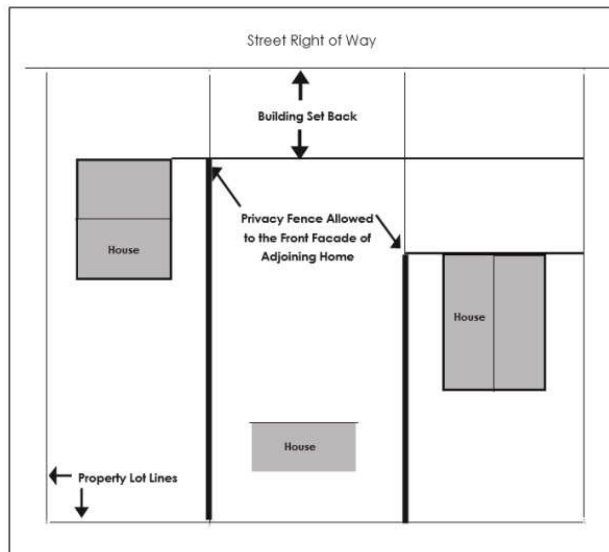
- (1) Barbed-wire fences and electric fences are permitted only in the T-1 Temporary district, and only for control of livestock.
- (2) Fences are not subject to setback requirements, except for street-yard setbacks for Solid Fences in subsection (3) and street-yard requirements for open Security Fences in subsection (7), and may be located on lot lines.
- (3) (Am. #2021-7) Solid Fences are permitted in residential zoning districts, subject to

the following rules:



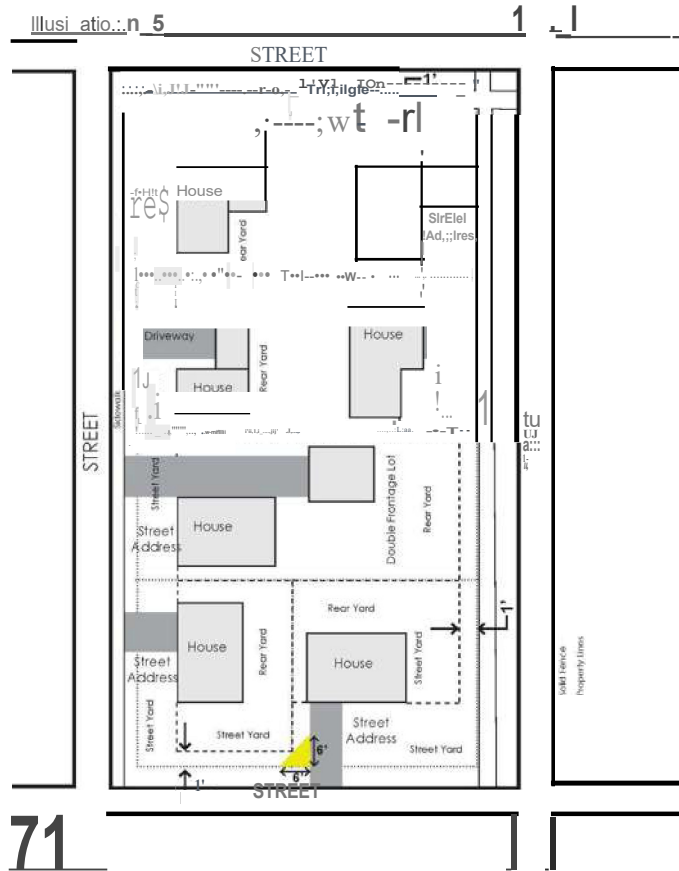
- (A) Solid Fences shall not exceed a height of 6 feet, measured vertically from the ground.
- (B) On residential lots having only one street frontage, Solid Fences are permitted only in Side Yards and Rear Yards, but may extend into the Street Yard as far as the line of the front of the house in an adjoining lot (see Illustration 4).
- (C) On residential lots having two street frontages (for example, a corner lot or a lot having street frontage at both the front and the rear), Solid Fences are allowed in Side Yards, and Rear Yards. For purposes of this subsection, only the Yard fronting the street that is the property's address is deemed to be a Street Yard; Solid Fences are permitted in the Yard fronting a street that is not the property's address (see Illustration 5).
- (D) Solid Fences may not be located closer than 1 foot to a public right-of-way (see Illustration 6). Note: Public sidewalks and alleys are within public right-of-way. In most cases, this means that Solid Fences may not be closer than 1 foot to a public sidewalk or alley.
- (E) Solid Fences shall provide for a vision triangle 6 feet on the right-angle sides at driveways and alleys (see Illustration 6).
- (F) Solid Fences that are, as of June 15, 2021, not in compliance with this subsection 3, may remain in place until more than 50% of the supporting structure is removed or in need of replacement, at which time the Solid Fence must be relocated and otherwise brought into full compliance with this subsection 3.
- (G) For lots having an address-side Street Yard less than 20 feet in depth, compliance with Municipal Code §22.53(1) may be required.

Illustration No. 4



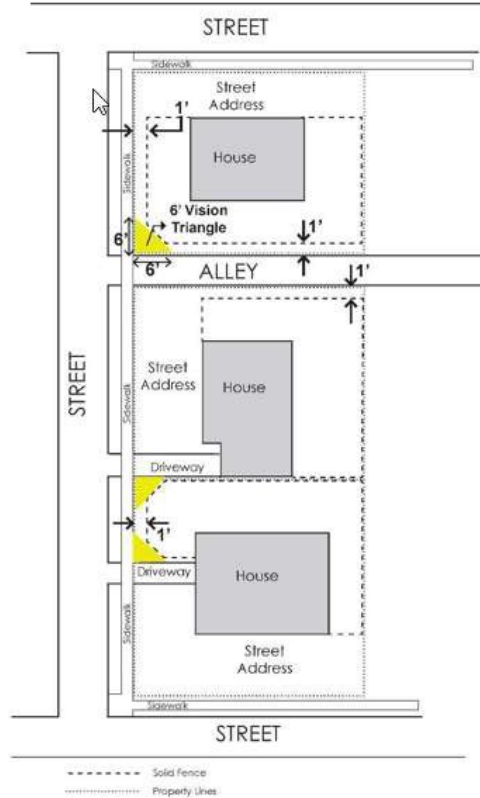
Plan view diagram illustrating allowed residential privacy fence locations between adjoining lots.

(Illustration 5 created #2021-7)



(Illustration 6 created #2021-7)

Illustration 6



- (4) Ornamental Fences are permitted in street yards, side yards and rear yards in any zoning district, but shall not be erected in a street right-of-way, and shall not exceed a height of 4 feet.
- (5) All fences shall be constructed so that the finished side faces the adjacent property, and fence posts face away from the adjacent property.
- (6) All fences shall comply with the traffic-visibility rules in Section 22.53.
- (7) Security Fences are permitted up to the property lines in all zoning districts except residential, shall not exceed 10 feet in height, and shall be Open Fences when located in the street yard. Security Fences may include up to four strands of barbed wire on the top of the fence provided that the barbed wire is at least 8 feet above grade, and the vertical supports for the barbed wire shall either extend vertically or slant inward away from the property line. All proposals for installation of Security Fences shall be submitted to the Plan Commission for review and approval before installation, and the Plan Commission shall have authority to require that Security Fences be in aesthetic harmony with surrounding properties.
- (8) "Solid Fence" is defined in §22.05(75). "Security Fence" is defined in §22.05(74). "Ornamental Fence" is defined in §22.05(73). "Open Fence" is defined in



## §22.05(72).

## 3. EARTH STATION DISH ANTENNAS.

- a. Ground mounted or building mounted dish antennas having a diameter of more than forty (40) inches are permitted as accessory uses provided that all the requirements of subparagraphs (b) through (i) are met.
- b. Earth station dish antennas shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of noncombustible and corrosive resistant materials.
- c. Earth station dish antennas shall be filtered or shielded, or both, so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and or television broadcasting or reception on adjacent properties. If harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with FCC regulations.
- d. Ground-mounted dish antennas shall meet the height requirements for accessory structures in the zoning district in which they are located. Building-mounted dish antennas shall not exceed the maximum height regulation of the zoning district in which they are located.
- e. Ground-mounted earth station dish antennas shall meet all setback and yard requirements for accessory structures in the district in which they are located and are permitted in the rear yard only in residential district, provided that they shall be no closer than five (5) feet to the principal structure and any rear lot line, nor occupy more than twenty percent (20%) of the rear yard area. Ground-mounted earth station dish antennas are permitted in the side and rear yards in commercial, industrial and public/institutional zoning districts provided that they shall be closer than 5 feet to the principal structure, shall not occupy more than fifty percent (50%) of a side yard nor seventy-five (75%) of a rear yard area, and shall be no closer than three (3) feet to any side or rear lot line nor five (5) feet to any alley line. Building-mounted earth station dish antennas shall not exceed the setback and yard requirements of the zoning district in which it is located.
- f. Not more than one (1) earth station dish antenna shall be permitted on a lot or parcel in a residential zoning district.
- g. The installation of an earth station dish antenna shall require a building permit. The property owner shall submit, to the Building Inspector, plans which indicate the appearance, proposed location and installation method of the dish antenna. Earth station dish antennas shall be located and screened to minimize their visual impact on surrounding properties. If the property owner in a residential zoning district proposes a building-mounted antenna location in which the antenna would be visible from the front lot line, that property owner must demonstrate that reception would not be possible from a less conspicuous location. The property owner in a residential zoning district who proposes a building-mounted antenna must also submit a plan for screening the antenna from surrounding properties whenever such screening can be accomplished in a manner that is appropriate to the architecture of the building. The Building Inspector shall refer to the Architectural Review Board any plans which do not clearly meet the requirements of this section.
- h. All earth station dish antennas, and the construction and installation thereof, shall conform to applicable City Building Code and Electrical Code regulations and requirements. Prior to the issuance of a building permit for a building-mounted earth station dish antenna, the applicant shall submit a plan or document prepared by the

registered professional engineer which certifies that the proposed dish antenna installation is structurally sound.

- i. Any earth station dish antenna existing on November 21, 1984, which does not conform to these regulations, shall be brought into conformance within one (1) year of this date.

#### 4. TELEVISION BROADCAST SATELLITE ANTENNAS.

- a. Antennas which are forty (40) inches or less in diameter or diagonal measurement designed to receive direct broadcast satellite service, including direct-to-home satellite services or receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services.
- b. Television Broadcast Satellite Antennas shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of non-combustible and corrosive-resistant materials. The express purpose of this requirement is to ensure the safety of Waukesha citizens by preventing Television Broadcast Satellite Antennas from coming dislodged in high winds or from causing fires due to the use of combustible materials in their installation.
- c. In the event that building-mounted Television Broadcast Satellite Antennas shall exceed a height of twelve (12) feet above the building's roofline, such installations shall require a building permit. To obtain the building permit, the property owner shall submit to the building inspector plans which indicate the location and installation method of the building-mounted Television Broadcast Satellite Antenna. The express safety objective of this requirement is to ensure that high structures supporting an anchored object pose no risk of injury to Waukesha citizens or to adjoining property if the structures or the anchored object were to become dislodged and fall.
- d. No Television Broadcast Satellite Antenna can be situated so as to interfere with traffic contrary to the provisions of Section 22.52(1) of the Waukesha Municipal Code.
- e. If a Building Department representative discovers a violation of subsections (b), (c), or (d) above, the Building Department may issue an Order to the property owner or tenant ordering that the Television Broadcast Satellite Antenna be removed and reinstalled in compliance with this section. If the Television Broadcast Satellite Antenna is not removed within the time stated in the Order, the Building Department may issue a forfeiture not to exceed thirty dollars (\$30).
- f. Building-mounted and ground-mounted Television Broadcast Satellite Antennas shall meet all setback and yard requirements for accessory structures of the zoning district in which they are located unless doing so would: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.
- g. Television Broadcast Satellite Antennas must be placed in rear yards in all districts unless doing so would: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.
- h. The building department may require the property owner to screen the Television Broadcast Satellite Antenna from surrounding properties by painting the Antenna a color which matches its surrounding area and background, unless doing so would: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal.

- i. To ensure that the delineated safety objectives are met, property owners who plan to install a Television Broadcast Satellite Antenna must notify the Building Department of the installation. Such notification may be made by phone, fax, in person, or in writing. The notification must include information indicating the proposed location and installation method of the antenna.
- j. Any person who violates subsections (f), (g), (h), and (i) above, may be subject to a forfeiture not to exceed \$15, provided that if a property owner or tenant violates subsections (f), (g), (h), or (i), no City department or agent may take any step which would: (1) prevent or unreasonably delay the antenna's installation, maintenance, or use; (2) unreasonably increase the cost of its installation, maintenance or use; or (3) preclude reception of an acceptable quality signal, unless such steps are necessary to enforce the safety restrictions in subsections (b), (c), or (d) of this section or to enforce any additional safety restrictions set forth in this Code or State statutes.
- k. Television Broadcast Satellite Antennas are not exempt from the restrictions set forth in section 28.05(3) of the Code.

#### 5. HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES.

- a. Home occupations and professional home offices are permitted accessory uses in any residential district, not requiring a conditional use permit, provided that:
  - (1) The use of the residential dwelling for the home occupation or professional home office shall be clearly incidental and subordinate to its residential use and shall not occupy more than twenty-five percent (25%) of the floor area of one floor.
  - (2) No home occupation or professional home office shall be located in or conducted in an accessory structure.
  - (3) No person other than members of the family residing on the premises shall be employed or engaged in such home occupation or professional home office.
  - (4) The home occupation and professional home office shall not increase the traffic volume in a residential neighborhood to a significant or substantial degree and any need for parking generated by the conduct of the home occupation or use shall be provided off the street and other than in the required street yard.
  - (5) No outdoor storage of equipment or product shall be permitted.
  - (6) No stock in trade shall be kept or sold except that made on the premises.
- b. Home occupations, which comply with the conditions set forth in (a)1.-6. above, may include, but are not limited to babysitting, canning, crafts, desktop publishing and other computer services, dressmaking, laundering, millinery, piano teaching, telephone marketing, and word processing.
- c. Home occupations shall not include auto body or engine repair, fire-arm sales or repair, ammunition sales, barbering, beauty shops, construction trades, dance studios, firewood sales and processing, insurance agencies, pet sales and grooming, photographic studios, real estate brokerages, or any other occupation inconsistent with the residential character of the neighborhood.
- d. (Cr. #21-06) Home occupations may be allowed provided no structural alterations or constructions involving features not customary in dwellings are required, and the entrance to the space devoted to such use shall be from within the dwelling. An unlighted sign of not over one square foot in area and attached flat against the building shall be permitted.

6. HOME INDUSTRIES. Home Industries are conditional uses in any residential district, requiring review and public hearing by the Plan Commission, provided that:
- a. Home industries shall generally be limited by the standards for home occupations and professional home offices set forth in paragraph (5) above.
  - b. The Plan Commission may, however, permit as home industries those uses that are prohibited by paragraph (5) above when they are deemed not to be disruptive to the neighborhood.
  - c. Home industries may be permitted in an accessory building when it is deemed not to be disruptive to the neighborhood.
  - d. Assembly and manufacturing of small-scale piece work may be permitted when it is deemed not to be disruptive to the neighborhood.
  - e. Use of non-household appliances and tools may be permitted when it is deemed not to be disruptive to the neighborhood.
  - f. The Plan Commission may limit the hours and days of operation of any activity to preserve the residential character of the neighborhood.
  - g. (Cr. #21-06) Home industries may be allowed provided no structural alterations or constructions involving features not customary in dwellings are required, and the entrance to the space devoted to such use shall be from within the dwelling. An unlighted sign of not over one square foot in area and attached flat against the buildings shall be permitted.

(Rep. & recr. #66-01) (Repealed & replaced #2020-14)