

176.52 USE STANDARDS.

Any use that is not specifically listed in a zoning district or overlay and that does not fall within a general land use definition of Section 176.06, is prohibited within that district or overlay.

The Accessory Uses specifically listed in the tables of permitted and conditional uses for the zoning districts shall be allowed only as specified in the table. Accessory Uses other than those specifically listed are permitted in all zoning districts, as indicated in the tables of permitted and conditional uses.

1. General Land Use Standards.

A. **Agriculture.** Agriculture is permitted only on lots of thirty-five (35) acres or more, and the following standards shall be met:

(1) Retail sales of agricultural products shall be conducted on the premises.

(2) Agricultural uses are distinct from urban agriculture and private horse stables.

B. **Outdoor Uses Generally.** All business, sales, service, storage and display of goods, manufacturing, and repairs shall be conducted wholly within enclosed buildings, except where a permanent or temporary outdoor use is specifically allowed by this Ordinance.

C. **Outdoor Dining.**

(1) Outdoor Dining shall be permitted only as an accessory use to a restaurant or when specifically permitted in conjunction with a temporary use.

(2) Outdoor Dining areas shall not be located in a required yard abutting any residential district.

(3) The sound level of any music or other sound shall not exceed the regulations set in Chapter 53, Noise and Noise Limits of the Marion Code of Ordinances.

D. **Outdoor Sales.** This section regulates Outdoor Sales areas that are used for longer periods of time than Temporary Outdoor Sales areas, whether permanent or seasonal. These Outdoor Sales areas are permitted only if allowed by the regulations of the zoning district in which the lot is located, and shall conform to the following requirements:

(1) Outdoor Sales shall not be conducted within 50 ft. of any residential zoning district or public street unless completely screened from view. Complete screening shall consist of an opaque barrier of landscaping, walls, fencing, berms or other methods sufficient in density and height to render the Outdoor Sales operation invisible from the lot line of any lot in a residential zoning district, and from the street. Outdoor sales located more than 50 feet from residential zoning districts and public streets need not be screened.

(2) The lot coverage of Outdoor Sales areas on the lot shall be limited to not more than five percent (5%) of the lot area; the lot coverage of Temporary Outdoor Sales areas shall not be included in this calculation.

(3) Outdoor Sales shall be conducted only within a designated area.

(4) Outdoor Sales areas and the surrounding premises shall be maintained in an orderly manner, free of litter and other refuse. Storage of goods for sale shall be no more than five (5) feet in height. Outdoor Sales shall not obstruct required access to buildings or parking spaces on the site, or to adjoining property.

(5) Outdoor Sales areas accessory to a Gas Station are permitted without a conditional use, provided their area is limited to a total lot coverage of 30 square feet multiplied by the number of dispensing pumps on the lot, and shall be located only within the pump islands or on a sidewalk adjoining the building. Outdoor Sales accessory to a Gas Station in excess of this limitation shall require a Conditional Use, if required by the district regulations.

E. Outdoor Storage. Outdoor storage, other than parking and storage of commercial and recreational vehicles shall only be allowed as an accessory use as provided in the district regulations, and shall be screened in accordance with Section 176.43.

F. Refuse Dumpsters and Recycling Containers. Outdoor refuse dumpsters, recycling containers, compacting equipment, pallet storage, baled cardboard, and other refuse and recycling materials are permitted as an accessory use in any zoning district, provided that they are screened in accordance with Section 176.43, and that the refuse and recycling materials shall only be permitted to be present on the lot until the next regular refuse and recycling pickup date for the property served.

2. Standards for Specific Uses. The following requirements shall apply to the specified uses allowed as permitted or conditional uses in the zoning districts, in addition to all other applicable provisions of this Ordinance:

A. Artist Live/Work Space. Artist live/work space shall conform to the standards applicable to home occupations, except that the floor area devoted to non-residential activity shall not be limited.

B. Bed and Breakfast Establishment. Bed and breakfast establishments shall comply with the following standards:

(1) Guest rooms shall not include cooking facilities.

(2) A maximum of five (5) bedrooms may be provided for registered guests.

(3) The maximum stay by any guest shall be limited to thirty (30) days.

(4) All required guest parking shall be provided on-site.

C. Car Washes.

(1) When adjacent to a Residential District, the interior side yard setback and rear yard setback shall be fifteen (15) feet.

(2) Vacuum stations and related equipment shall comply with the setbacks of the primary structure.

(3) Section 176.43, Landscaping & Screening Standards shall be followed; except that the bufferyard between a residential district and a car wash shall be limited to the structural bufferyard standard.

(4) All carwash bays and tunnels and all related equipment shall be designed to minimize the creation of, and reduce the carrying off premise, of airborne particles of water, chemicals, and dust.

(5) An on-site queuing plan showing a minimum capacity of three (3) vehicles shall be approved by Planning and Engineering staff.

(6) A maximum of two (2) access points are allowed and can be from either the primary or secondary facing street, provided they meet the following standards and receive approval from the City Engineer:

(a) SUDAS standards

(b) Adopted local regulations

(7) If accessory to a gas station, the carwash building shall be constructed of similar materials to the primary structure.

D. Delayed Deposit Services. Delayed deposit services shall have a distance separation of 1,000 feet from any child care center, educational facility, park or recreational facility, religious institution or other delayed deposit service use.

E. Drive-Thru Facilities.

- (1) An on-site queuing plan shall be approved by Planning and Engineering staff.
- (2) Landscaped barriers shall separate the stacking lane(s) from parking areas and driveways; except that the bufferyard between a residential district and a drive-thru facility shall be limited to the structural bufferyard standard.
- (3) An escape opening shall be provided within the landscaped barrier between the stacking lane and driveways when the barrier is longer than 120 feet.
- (4) One menu board per stacking lane is allowed.
- (5) On site circulation should be designed to minimize conflict points between pedestrians and vehicles.
- (6) All signage shall follow Section 176.31 of the Marion Code of Ordinances.

F. Dwelling Units, Auxiliary. Auxiliary dwelling units, attached and detached, are subject to the following standards:

- (1) Occupancy of any auxiliary dwelling unit shall be limited to no more than two (2) persons.
- (2) Only one (1) auxiliary dwelling unit, either detached or attached, shall be permitted on a lot.
- (3) The auxiliary dwelling unit shall have a maximum floor area of not more than seven hundred (700) square feet.
- (4) Auxiliary dwelling units shall comply with all yard requirements of the zoning district.
- (5) The vehicle access door of any new garage associated with the construction of an auxiliary dwelling unit shall be set back a minimum of twenty-five (25) feet from any street right-of-way line.
- (6) No more than one (1) of the units, either the principal dwelling unit or the auxiliary dwelling unit, may be non-owner occupied. A deed restriction shall be recorded prior to issuance of a building permit for the auxiliary dwelling unit to provide notice of this requirement to subsequent owners.
- (7) Annual registration and inspection of the non-owner-occupied dwelling unit (auxiliary or primary) is required. If the owner fails to register and submit to an inspection, the auxiliary dwelling unit shall not be occupied until compliance is obtained.
- (8) The auxiliary dwelling unit shall not be larger in area or height than the principal dwelling unit.

- (9) A new separate driveway providing exclusive access to the auxiliary dwelling unit shall not be permitted.
- (10) Detached auxiliary dwelling units shall be located at least ten (10) feet from the principal dwelling unit.
- (11) Detached auxiliary dwelling units shall not be located closer to the street than the principal dwelling unit.

G. Gas Station.

- (1) Restaurants in gas stations shall be required to meet the parking requirements for restaurants in addition to those for gas stations.
- (2) Fuel pumps shall be located no closer than twenty (20) feet from any lot line and shall be located so that a vehicle using the fuel pump does not encroach into the public right of way or onto adjoining property.
- (3) Pumps and canopies shall be located either:
 - (a) Behind the principal building, not visible from the street or public space; or
 - (b) On corner lots may be located on the side of the principal building. However, corner side pumps and canopies shall not be located towards 6th Avenue, 7th Avenue, or public parks, schools, and open spaces.
 - (c) On corner lots, the principal building shall be built to the intersection.
 - (d) These regulations do not apply to the BR, M-1, and M-2 districts.
- (4) Gas stations shall be buffered from any residential use including mixed-use buildings by a ten (10) foot planting strip, with shrubs and/or trees that form a barrier at least thirty (30) inches tall. A decorative fence or other non-natural barrier can be used with fewer plantings to form an opaque barrier. Other screening requirements in the code for trash and mechanical equipment shall be met.
- (5) Lighting shall be shielded downward to prevent glare onto adjacent properties.
- (6) Pedestrian routes shall be defined, differentiated from vehicle areas, to the building entrance from the public sidewalk and pumping areas.
- (7) A maximum of two (2) access points are allowed and can be from either the primary or secondary facing street, provided they meet SUDAS standards and receive approval from the City Engineer.
- (8) Electric charging stations count towards minimum parking requirements.
- (9) No outdoor storage or automotive repairs are allowed on site.

(10) Canopies shall have similar color and architectural features as the primary building.

(11) One freestanding monument sign is allowed (see 176.31 for regulations).

H. Group Homes.

(1) Group Home, Small: Off-street parking shall be provided in accordance with the requirements for dwelling units.

(2) Group Home, Large: If off-street parking is needed in excess of what is required for a single-family dwelling, it shall be provided in accordance with the specific needs of the group home, as a condition of the granting of a conditional use.

I. Kennels. Kennels shall comply with the following standards:

(1) Outdoor runs and exercise areas shall be a minimum of one thousand (1000) feet from any residential zoning district.

(2) Outdoor kenneling shall be limited to veterinary offices/animal hospitals in a Manufacturing District.

(3) All animals shall be kept either within completely enclosed structures or under direct control of the kennel operator or staff at all times, and shall be kept within completely enclosed structures between the hours of 10:00 p.m. and 7:00 a.m.

(4) The operation of the kennel shall not allow the creation of noise by any animal or animals under its care which can be heard by any person at or beyond the property line of the lot on which the kennel is located, which occurs a) repeatedly over at least a seven-minute period of time at an average of at least twelve animal noises per minute, or b) repeatedly over at least a fifteen minute period of time, with one minute or less lapse of time between each animal noise during the fifteen-minute period.

J. Medical Cannabidiol Manufacturers. A medical cannabidiol manufacturer shall not operate in any location, whether for manufacturing, possessing, cultivating, harvesting, transporting, packaging, processing, or suppling, within one thousand (1,000) feet of a public or private school existing before the date of the medical cannabidiol manufacturer's licensure by the department. [Iowa Code 124E.7-10]

K. Medical Cannabidiol Dispensaries.

(1) A medical cannabidiol dispensary shall not operate in any location within one thousand (1,000) feet of a public or private school existing before the date of the medical cannabidiol dispensary's licensure by the department. [Iowa Code 124E]

(2) A registered dispensary shall not be located in a house, apartment, condominium, or an area zoned for residential use.

L. Motor Vehicle Sales and Leasing Establishments.

(1) Newly established Motor Vehicle Sales and Leasing establishments shall have a minimum lot area of one hundred thousand (100,000) square feet.

(2) All Outdoor Motor Vehicle Display areas shall be landscaped in accordance with Section 176.43, except:

(a) Where an Outdoor Motor Vehicle Display area adjoins a building wall containing showroom display windows, Building Foundation Landscaping may be relocated when:

i An equivalent amount of Building Foundation Landscaping is provided at an alternate location between the building wall and the street, at a location not more than 125 feet from the building wall.

ii The vehicle display area adjacent to the building wall is constructed as a concrete-curbed platform, paved with decorative concrete or masonry.

iii Building Foundation Landscaping is provided adjacent to or within 16 ft. of all exterior corners of the building wall.

(b) Internal Parking Lot Landscaping may be relocated to the perimeter of the Outdoor Motor Vehicle Display area in a location visible from streets adjoining the lot; however, landscape islands shall be required at the end of all vehicle display rows.

M. Motor Vehicle Service and Repair, Major. Major motor vehicle service and repair shops shall not store or park any vehicle on the lot, including but not limited to wrecked or junk vehicles, for longer than forty-five (45) days. All repair operations shall be conducted within fully enclosed buildings and all storage of vehicles and equipment shall be fully screened by means of fencing or landscaping or a combination thereof.

N. Motor Vehicle Service and Repair, Minor. Minor motor vehicle service and repair shops shall not store or park any vehicle on the site for longer than five (5) business days. Minor motor vehicle service and repair shops with fuel pumps shall also comply with the requirements applicable to Gas Stations. All repair operations shall be fully enclosed, and wrecked or junked vehicles shall not be stored for longer time periods than those specified above.

O. Motor Vehicle Storage. Motor Vehicle Storage shall comply with the following standards.

(1) Off-street parking facilities designed to conform with the requirements of Chapter 176.29, Parking & Loading Regulations may be used for Motor Vehicle Storage, in compliance with the following requirements:

- (a) No vehicles shall be stored in an off-street parking space required for any other use located on the same or another lot.
 - (b) Vehicles shall be parked within designated off-street parking spaces and shall not obstruct vehicular access to parking stalls or any portion of the lot.
- (2) Newly established Motor Vehicle Storage lots shall comply with the requirements applicable to Off-Street Parking Facilities, except:
- (a) 176.43-8 Parking Lot Landscaping
 - (b) Direct access to individual spaces shall not be required.
- (3) Motor Vehicle Storage lots shall not be used as Off-Street Parking Facilities unless modified to comply with all requirements of this Ordinance.
- (4) Commercial Vehicles shall only be stored in the M-2 district.
- (5) Stored vehicles shall be operable, and no wrecked or junked vehicles shall be permitted.
- (6) Signage advertising the vehicles for sale or rental is prohibited.
- (7) Motor Vehicle Storage lots shall not be used to conduct retail sales and no retail customers shall be present at any time.
- (8) Motor Vehicle Storage lots in the M-1 Light Manufacturing District shall:
- (a) Not be located closer than 500 feet to any residentially zoned property.
 - (b) Not be located on a lot that is less than 2-acres in area.

P. Outdoor Entertainment. Outdoor Entertainment shall be permitted only as an accessory use to a restaurant, except as a temporary use in accordance with Section 176.51.

Q. Sexually Oriented Businesses (as defined and regulated under Chapter 127 of this Code of Ordinances), provided that adult uses shall be subject to the following standards:

- (1) No adult use shall be located within one thousand (1,000) feet of any residential district, U-1, U-2, or PI District, or within one thousand (1,000) feet of a place of worship, public park, licensed day care center, school or another adult use.
- (2) No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” from any public way or from any adjacent property. This provision shall apply to any display, decoration, sign, show window or other opening.

R. Veterinary Office/Animal Hospital. Veterinary Office/Animal Hospital shall comply with the following standards:

(1) Outdoor exercise areas that directly abut or face any residentially zoned properties, commercially zoned properties, and any public street shall be screened with a 100% opaque non-see-through fence or wall.

(2) All animals shall be kept either within completely enclosed structures or under direct control of the facility operator or staff at all times, and shall be indoors between the hours of 10:00 p.m. and 7:00 a.m.

(3) Veterinary offices/animal hospitals providing onsite service to domestic animals only and include: outdoor kennels, commercial boarding services accept as an accessory use, crematory services or 24-hour emergency service shall be located at least 100 feet from any lot in any Residential District; all outdoor kenneling shall be limited to clinics located in a Manufacturing District.

(4) Noise regulations shall conform with standards set forth in Chapter 53, Noise and Noise Limits of the City of Marion Code.

3. Temporary Uses – General Provisions. A permit shall be required for temporary uses allowed in this Ordinance, except that temporary uses operated or sponsored by a governmental entity and located on a lot owned by that entity do not require a permit, but shall otherwise be subject to the requirements of this Section. The applicant shall submit a site plan or other suitable description to the Zoning Official, with any required permit fee. As a condition of permit issuance, the Zoning Official may require conformance with specific conditions regarding the operation of the temporary use as may be reasonably necessary to achieve the requirements of this Section. If the Zoning Official finds that the applicable requirements have not been met, he may revoke the permit and may require the cessation of the temporary use. Where a permit for a temporary use has been revoked, no application for a new permit shall be approved within six months following revocation. All temporary uses, shall comply with the following requirements:

A. No temporary use shall be established or conducted so as to cause a threat to the public health, safety, comfort, convenience and general welfare, either on or off the premises.

B. Temporary uses shall comply with all requirements of the Fire Code and other applicable codes and regulations. If necessary to ensure the protection of public safety due to the presence of a particular hazard, the Fire Chief may require the operator of the temporary use to employ a fire watch team and/or appropriate security personnel.

C. Temporary uses shall not obstruct required fire lanes, access to buildings or utility equipment, or egress from buildings on the lot or on adjoining property.

D. Temporary uses shall be conducted completely within the lot on which the principal use is located, unless the City Council authorizes the use of City-owned property or right of way.

E. When a permit is required for a temporary use, the Zoning Official shall make an assessment of the number of parking spaces reasonably needed for the permanent uses on the lot where the proposed temporary use is to be located, on the basis of the particular temporary use, the seasonal demand for parking on the lot at the time the temporary use is proposed, and the availability of other public and private parking facilities in the area. The Zoning Official may deny the permit for a temporary use if he finds that the temporary use will result in inadequate parking being available for permanent uses on the same lot that are not connected with the business proposing the temporary use.

F. During the operation of the temporary use, the lot on which it is located shall be maintained in an orderly manner, shall be kept free of litter, debris, and other waste material, and all storage and display of goods shall be maintained within the designated area. Storage of goods for sale shall be no more than five (5) feet in height.

G. Signs for a temporary use shall be permitted only in accordance with the Section 176.31, Signs.

4. Permitted Temporary Uses.

A. Temporary Outdoor Sales. Temporary Outdoor Sales shall be limited to three (3) events within one (1) calendar year per lot. These events shall be restricted to the following time limits: one (1) event of not more than sixty (60) days, and two (2) events of not more than thirty (30) days each. This does not include residential sales as defined within Section 176.35, Supplemental Regulations.

B. Outdoor Arts, Crafts and Plant Shows, Exhibits and Sales. Outdoor arts, crafts and plant shows, exhibits and sales conducted by a nonprofit or charitable organization shall be permitted in any nonresidential zoning district, and may be conducted in addition to the time limits for Outdoor Sales Areas for a period of not more than seven (7) days.

C. Carnivals. Carnivals shall meet the requirements of Chapter 131, Amusement Licenses, of the Marion Code of Ordinances. Carnivals shall be limited to a maximum of 14 days, and a maximum of three (3) permits may be issued within one calendar year per lot.

D. Temporary Contractor Trailers and Real Estate Model Units. Temporary contractor trailers and real estate sales trailers or model units shall be permitted in any zoning district when accessory to a construction project for which a building permit or site development permit has been issued. Such uses shall be limited to a period not to exceed the duration of the active construction phase of such project or the active selling and leasing of space in such development, as the case may be. No such use shall contain any sleeping or cooking accommodations, except those located in a model unit.

E. Temporary Motor Vehicle Storage. Temporary Motor Vehicle Storage shall be limited to a period of one hundred eighty (180) days. No lot shall be used for Temporary Motor Vehicle Storage for more than one hundred eighty (180) days in any one-year period.

(Ord. 18-28 – Nov. 18 Supp.)