

**Address:** 315 N. Briegel / Parcel # 04-16-440-006-000

**Zoning:** R-6 Single-Family Dwelling District

### **Statutory Guidance**

*Relevant excerpts only. May not include entire Chapter/Section.*

*Please refer to City Code for full/complete Chapter/Section.*

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#### **Chapter 17.22 R-6 ONE-FAMILY DWELLING DISTRICT**

*[Applicability: Current zoning of subject property.]*

Section 17.22.020 Permitted uses.

A. Aeration Windmill Systems for aeration of ponds and lakes as an accessory use incidental and subordinate to the principal use of the property on which they are located.

Any use permitted in the R-2 one-family dwelling district.

#### **Chapter 17.14 R-2 ONE-FAMILY DWELLING DISTRICT**

*[Applicability: Reference §17.22.020A - Uses permitted in R-6 defined by R-2]*

Section 17.14.020 Permitted uses.

- A. One-family detached dwellings;
- B. Home occupations, as defined in Section 17.04.030;
- C. Public school, elementary and high, or private school having a curriculum similar to that ordinarily given in a public elementary school or public high school, including religious instruction in parochial schools;
- D. Churches and similar places of worship;
- E. Convents, monasteries, rectories or parish houses to be occupied by not more than ten persons or other similar uses as specified in Chapter 17.40;
- F. Temporary buildings and uses for construction purposes for a period not to exceed one year;
- G. Accessory use or building, as defined in Section 17.04.030 and as regulated by Chapter 17.42;
- H. Off-street parking facilities, as required or permitted by Chapter 17.44;
- I. Private swimming pools appurtenant to a one-family dwelling and on the same lot, when they meet yard depth and width requirements for principal buildings in the district in which they are located and when the swimming pool or the property on which it is located is adequately fenced to prevent free access of small children and meets all applicable health and sanitary requirements.
- J. Aeration Windmill Systems for aeration of ponds and lakes as an accessory use incidental and subordinate to the principal use of the property on which they are located.

#### **Chapter 17.04 DEFINITIONS AND RULES OF CONSTRUCTION**

*[Applicability: Reference §17.14.020 - Uses Permitted as defined]*

Section 17.04.030 Definitions.

As used in this title:

"Accessory building or use" means a use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. An accessory use includes, but is not limited to the following:

1. A children's playhouse, garden house, and private greenhouse;
2. A civil defense shelter serving not more than two families;
3. A garage, shed or building for domestic storage;
4. Incinerators incidental to residential use;
5. Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by the district regulations;

6. A non-paying guest house or rooms for guests within an accessory building, provided such facilities are used for the occasional housing of guests of occupants of the principal building and not for permanent occupancy by others as housekeeping units;
7. Off-street motor vehicle parking areas and loading and unloading facilities;
8. Any satellite earth station, whether ground-mounted or mounted to the roof or a wall of the principal building.
9. Wind Driven Aeration Systems (also known as "Aeration Windmills") which do not generate electric power and which pump oxygen into air lines located in ponds or lakes to air diffusers located at the bottom of the lake or pond, which air diffusers turn the compressed air into oxygen bubbles which rise through the water and remove pollutants in the water that stagnate and deplete the oxygen from the pond or lake, and which Aeration Windmills are accessory to the main building or use of the premises on which they are to be located.

"Home occupation" is defined in Chapter 17.46 of this zoning code.

## **Chapter 17.46      HOME OCCUPATIONS**

*[Applicability: Reference §17.40.030 - Home occupation as defined]*

Section 17.46.010      Home occupations--Generally.

Residents of the city may conduct home occupations within the dwelling unit in the city in which they reside in accordance with the provisions of this chapter and not otherwise. Home occupations which are authorized by this chapter shall be limited to any occupation, profession or other business enterprise carried on for monetary gain as an accessory use in a dwelling unit by a member or members of the immediate family who reside in the dwelling unit, provided the business activity conducted within the dwelling unit meets the following criteria, and not otherwise:

## **Chapter 17.52      NONCONFORMING BUILDINGS AND USES**

Section 17.52.010      General provisions.

- A. The lawful use of land for storage purposes, except for agriculture uses or where such use is an adjunct of any structure, which does not conform to the provisions of this title, shall be discontinued within one year from the date of the approval of this zoning code.
- B. The lawful use of a building or structure existing at the time of the effective date of this zoning code may be continued, although such use does not conform to the provisions of this title. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever such nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- C. Whenever the lawful use of a building becomes nonconforming through a change in zoning requirements or district boundaries, such use may be continued and if no structural alterations are made, may be changed to another nonconforming use of the same or of a more restricted classification. Whenever such nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- D. The lawful use of land as a trailer court which does not conform to the provisions of this title shall not be extended beyond the area actually so used at the date of approval of this zoning code and no new parking spaces or berths for additional trailers shall be added thereto.
- E. Whenever a nonconforming use of a nonagricultural building or structure, or part thereof, has been discontinued for a period of twelve (12) consecutive months, or for a continuous period of eighteen (18) months if the building was originally designed and constructed for a residential use, such use shall not, after being discontinued or abandoned, be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.
- F. Where no enclosed building is involved, discontinuance of a nonconforming use for a period of six months shall constitute abandonment.
- G. No existing non-agricultural building or structure devoted to a use not permitted in the district in which such building or premises is located, except when required to do so by law, shall not be enlarged,

extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or structure is located; provided, however, any building containing a residential nonconforming use may be altered in any way to improve livability, but no structural alteration shall be made which would increase the number of dwelling units therein or the bulk of the building. Any existing building or structure devoted to a use permitted in the district in which such building or structure is situated, but failing to comply with the yard or building setback line requirements of this title, may be enlarged, extended, reconstructed or structurally altered in any manner which does not further encroach upon the required open yard space or building setback line requirements which are not complied with.

- H. A single-family residence located upon a lot created prior to the enactment of this Zoning Code or prior to the enactment of an amendment of this Zoning Code, may continue to be used as a single-family residence and may be reconstructed, enlarged, extended, or structurally altered notwithstanding the lot on which the residence is located does not comply with the minimum lot side requirement of the Zoning Code at the time of reference and said residential building may be reconstructed, enlarged, extended or structurally altered in any manner which does not cause an encroachment that did not theretofore exist or cause a further encroachment upon the required open yard space or building setback line requirements which are not complied with. If such residential building is partially or totally destroyed by fire, explosion, tornado, earthquake or other casualty or act of God, it may be reconstructed, enlarged, extended or structurally altered in any manner which does not create an encroachment or create a further encroachment of an existing encroachment upon the required open yard space or building setback line requirements which are not complied with.
- I. Any nonagricultural building or structure containing a nonconforming use, other than a one-family dwelling use, which is damaged by explosion, fire, flood, wind or other act of God to the extent of fifty (50) percent or more of its fair market value immediately prior to damage, shall not be repaired or reconstructed except in conformity with the provisions of this title. In the event that the building commissioner's estimate of the extent of damage or fair market value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal the decision of the building commissioner to the city's zoning board of appeals.
- J. No nonagricultural building or structure designed or intended to be utilized for a nonconforming use shall be constructed or allowed unless substantial construction is underway at the time of the enactment or subsequent amendment of this title and is being diligently prosecuted so that such building or structure will be completed within eighteen (18) months from the time of the enactment or subsequent amendment of this zoning code. All outstanding building permits for construction which do not meet these requirements shall be rendered null and void by the enactment or subsequent amendment of this zoning code.
- K. No junk or automobile wrecking yard not within an S-3 flood plain and drainage way district shall be operated or maintained for more than thirty-six (36) months after the effective date of this zoning code, or after a zoning change to a use district within which such use is not permitted, except that if within an A-1 agriculture district, the board of appeals may permit for a specified time, the continued use of an area containing junk or automobile wrecking yard; provided, that an eight-foot high solid fence or wall, or a ten-foot wide planting strip of trees and shrubs to provide a dense screen at maturity enclose such area.
- L. Any unimproved lot on which no building or structure was erected prior to the enactment or an amendment of this ordinance, and which does not meet the minimum size and/or dimension requirements of the zoning district in which it is located shall be considered a non-conforming lot of record and may be conveyed or sold, the same as if it were a conforming lot, but no building or structure shall be constructed or erected thereon unless the owner first obtains a variance from the City Council to allow for the same. Any lot on which a building or structure was erected prior to the enactment or an amendment of this ordinance, and which does not meet the minimum size and/or dimension requirements of the zoning district in which it is located shall be considered a legal non-conforming lot of record and may be used, conveyed or sold the same as if it were a conforming lot.