

## ORDINANCE 221

CITY OF BIRMINGHAM

## ZONING ORDINANCE

## TITLE

AN ORDINANCE regulating and restricting the height, number of stories and size of buildings; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings and land for trade, industry, residence and other purposes; creating districts for said purposes and establishing the boundaries thereof; providing for changes in the regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement; establishing a board of appeals; and imposing penalties for the violation of this Ordinance.

## PREAMBLE

In pursuance of authority conferred by the Public Acts of the State of Michigan in such case made and provided and for the purpose of promoting the health, safety, morals and general welfare of the inhabitants of the City of Birmingham by the lessening of congestion in the streets; securing safety from fire, panic and such other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue congestion of population; facilitating the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements; and by other means, in accordance with a comprehensive plan; now, therefore:

## ENACTING CLAUSE

The City of Birmingham Ordains:

## Article 1

## SHORT TITLE

Sec. 101. This Ordinance shall be known as the "Zoning Ordinance of the City of Birmingham," and will be referred to herein as "this Ordinance."

## Article 2

## DEFINITIONS

Sec. 201. For the purpose of this Ordinance certain terms, phrases and words shall, whenever used in this Ordinance, have the meaning assigned in this section. Terms not herein defined shall have the meanings customarily assigned to them.

ACCESSORY USE: Is a use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.

ALLEY: Any dedicated public way providing a second means of egress to a property.

BOARDING AND THE RENTING OF ROOMS, as permitted in the residence districts: Boarding and the renting of rooms shall include only such service to regular guests and shall not include the operating of what is normally termed a restaurant or similar use where meals are served to transient guests. To be considered as an accessory use, board or lodging shall not be furnished to more than 5 persons in addition to the family.

BUILDING LINE: A line formed by the face of the building.

CORNER LOT: A lot where the corner interior angle at the intersection of the two street lines is less than 185 degrees. The owner of such lot shall have the privilege of designating one street frontage as the front of the lot, except where the front of the lot is clearly indicated by the original plat of record.

DEPTH OF REAR YARD: The mean horizontal distance between the extreme rear line of the main building and the rear lot line.

EXISTING BUILDING: A building existing, or a building for which a legal permit has been issued and the foundations are in place or upon which there has been substantial work done, prior to the adoption of this ordinance.

HEIGHT OF BUILDING: The vertical distance from grade to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof and to the mean height for gable, hip or gambrel roofs.

FAMILY: Is any number of individuals living together as a single housekeeping unit and doing their cooking on the premises.

GRADE: Is the elevation of the curb at the midpoint of the front of the lot.

LOT: Is a parcel of land on which a principal building and its accessories are placed, together with the required open spaces.

STORAGE GARAGE: A garage used exclusively for the storage of motor vehicles. Motor vehicles shall not be repaired in such storage garage.

TERRACES: Attached single residence buildings built in groups of three or more.

YARD, REAR: A space unoccupied, except by a building of accessory use as hereinafter permitted, extending for the full width of the lot between the rear line of a building and the rear lot line.

YARD, SIDE: An open unoccupied space between the building and the side lot line and extending the full length of the building.

## Article 3

## DISTRICTS

## Districts Defined

Sec. 301. For the purpose of regulating and restricting the locations of trades and industries and the location of buildings designed for specified uses and also for the purpose of regulating and restricting the volume, height, and area of buildings hereafter erected or altered, the following 7 classes of districts are hereby created within the City of Birmingham:

## SINGLE-FAMILY RESIDENCE DISTRICT

## INCOME-BUNGALOW RESIDENCE DISTRICT

## TERRACE OR ATTACHED RESIDENCE DISTRICT

## MULTIPLE-FAMILY RESIDENCE DISTRICT

## BUSINESS-A DISTRICT

## BUSINESS-B DISTRICT

## INDUSTRIAL DISTRICT

All as shown on the "Zoning Map" of the City of Birmingham which is attached hereto and hereby made a part of this Ordinance.

The districts designated on said "Zoning Map" are hereby established as shown on said map. This map shall be referred to in this Ordinance as the "Zoning Map."

## Uses Permitted

Sec. 302. Any use prohibited in any district shall also be prohibited in all districts having more restrictions. Any use permitted in any district shall also be permitted in all districts having less restrictions.

## Article 4

## BOUNDARIES OF DISTRICTS

Sec. 401. The boundaries of the districts as shown on the "Zoning Map" are intended, in most cases, to follow the property lines and lot lines as they exist at the time of the enactment of this Ordinance; but where boundary lines obviously do not coincide with lot lines or property lines or where they are not located by dimensions on the "Zoning Map," they shall be deemed to be 125 feet back from the nearest street line parallel to which they are drawn. All questions concerning the exact location of boundary lines of the districts shall be determined by the Board of Appeals, as hereafter created, according to rules and regulations which may be adopted by said Board of Appeals.

## Article 5

## APPLICATION OF REGULATIONS

## Buildings and Lands Affected

Sec. 501. Except as hereinafter provided no buildings are to be erected or altered, and no lands or buildings are to be used for any purpose other than the uses permitted in the district in which such lands or buildings are located.

## Buildings and Lands Excepted

Sec. 502. The lawful use of any land or of any existing building on the effective date of this Ordinance may be continued as provided in Section 1301.

## Yard Areas

Sec. 503. No required open spaces or yards surrounding any building shall be encroached upon or reduced in any manner, except by condemnation of a portion of the property, nor shall any such areas serve as required yard space for more than one building.

Rear yard spaces required in residence districts may be occupied by accessory buildings or structures for accessory uses permitted herein; provided that such buildings or structures are not over 15 feet high nor occupy more than 40 percent of the required rear yard area.

## Building Lines

Sec. 504. In any residence district the street wall of a building shall not be required to set back from the street line a distance greater than a distance equal to the average of the setbacks of all street walls, or portions of street walls, within 100 feet on either side of the street wall in question and within the same street and block frontage; provided that any such street wall shall set back not less than 15 feet, except as provided for corner lots.

No dwelling shall be erected on any lot which does not abut for at least 15 feet upon a public street, a public court or upon a permanent unobstructed easement of access connecting such lot with a public street. Such street, court or easement shall have a minimum width of 25 feet, except where such street, court or easement of less width exists prior to the adoption of this Ordinance or prior to coming within the jurisdiction of this Ordinance: Such buildings shall not be permitted nearer to such court or easement line than to a street line.

## Rear Yard

Sec. 505. Rear yards required by the provisions of this Ordinance may be considered as extending to the centerline of the alley where there is an alley at the rear of the lot.

Where it is desired to erect a building from street to street or to within 50 feet of another street, no rear yard shall be required, but there shall be provided on each side lot line an area equal to the area of the rear yard normally required in addition to the normal side yard requirements.

## Article 6

## SINGLE-FAMILY RESIDENCE DISTRICT

## Permitted Uses

Sec. 601. No land or building within any district designated in this Ordinance as a Single-family Residence district shall be used for other than the following specified uses:

- Dwellings for one family only.
- The office of a professional man, customary home occupations, and boarding and the renting of rooms; provided, such use shall be accessory to a residential occupancy, and provided further there is no display of advertising, except that a physician or surgeon may display an inconspicuous sign not over 1 square foot in area.
- Churches, parish houses or Sunday school buildings.
- Schools and colleges.
- Signs advertising the rental, lease or sale of the property upon which they are maintained; Provided, that the total area of such signs displayed on one property does not exceed 9 square feet; Provided further, that the area of any one sign shall not exceed 3 square feet.

Accessory uses customary or incident to any of the above uses. No building occupied by any such accessory use shall be within 50 feet of any street line, except on a corner lot where such building may be not less than 15 feet from the street line on the side street.

An accessory use shall not include a building or use not located on the same lot with the building or use to which it is accessory. A private garage to be deemed an accessory use shall not provide storage space for more than one motor vehicle for each 2,000 square feet of ground area of the lot. Such private garage may have living quarters for servants or members of the family; Provided all requirements of a single residence for yard spaces are fulfilled.

The term accessory use shall not include the conducting of a retail business, but shall include only the use of a portion of the building by an occupant of such building for the conducting of his or her trade, profession or occupation. Such accessory use shall not occupy more than 25 percent of the floor area of any one floor.

No accessory use shall be permitted which by the emission of odor, smoke, dust or noise or which in any other way is objectionable or detrimental to the amenity of the neighborhood.

## Heights

Sec. 602. No building shall be erected in this district to a height greater than 2½ stories or 35 feet, except that churches or schools may exceed this limit by one foot for each foot in excess of 10 feet that the building sets back from all property lines.

## Building Lines

Sec. 603. No building or part thereof shall be erected in this district within 25 feet of any street line, except as provided in Section 504 and except that unroofed porches and steps may extend to within not less than 20 feet of the street line. On the side street frontage of corner lots any part of the building may extend to within not less than 12 feet of the street line.

## Side Yards

Sec. 604. All buildings erected in this district shall have side yards of the following minimum dimensions:

No. of Stories	Minimum Width of Side Yard	Sum of Widths of Both Side Yards
1 or 1½	4' 6"	13' 0"
2 or 2½	5' 0"	14' 0"

The minimum space between buildings shall not be less than the sum of the minimum side yard widths required.

## Rear Yard

Sec. 605. All buildings erected in this district shall have rear yards of a depth at least equal to 16 feet for a 1 story building, 18 feet for a 2 story building and 20 feet for a 2½ story building.

## Density of Population

Sec. 606. No building shall be erected or altered in this district which provides less than 500 square feet of floor area per family, said 500 square feet shall not include any floor space below the first floor. There shall be provided in this district 4500 square feet of lot area per family.

## Article 7

## INCOME-BUNGALOW RESIDENCE DISTRICT

## Permitted Uses

Sec. 701. No land or building within any district designated in this Ordinance as an Income-bungalow Residence district shall be used for other than the following specified uses:

- Those permitted in Section 601 for Single-family Residence districts.
- Income-bungalow type dwellings designed for occupancy by not more than 2 families; provided, however, such building shall have the general appearance of a single-family residence.
- Hospital or sanitarium, other than for the insane or feeble minded; provided, however, that not to exceed 25 percent of the lot area shall be occupied by such building and provided

further that no such building shall be within 50 feet of the street line or of the side lot lines.

- Philanthropic or eleemosynary uses or institutions other than correctional institutions.
- Nurseries for children.
- Accessory buildings as permitted in Section 601 (f), except that there may be provided in private garages, storage space for not more than 1 motor vehicle for each 1500 square feet of lot area.

## Heights, Building Lines and Yards

Sec. 702. All buildings erected or altered in this district shall conform to the requirements as to heights, building lines and yards as provided in Sections 602, 603, 604 and 605 for Single-family Residence districts.

## Density of Population

Sec. 703. No building shall be erected or altered in this district which provides less than 480 square feet of floor area per family, said 480 square feet shall not include any floor space below the first floor. There shall be provided in this district 2400 square feet of lot-area per family.

## Article 8

## TERRACE OR ATTACHED RESIDENCE DISTRICT

## Permitted Uses

Sec. 801. No land or building within any district designated in this Ordinance as a Terrace or Attached Residence district shall be used for other than the following specified uses:

- Those uses permitted in Section 701 for Income-bungalow Residence districts.
- Terraces and attached or row houses.

## Heights

Sec. 802. No building shall be erected or altered in this district to a height greater than 2½ stories or 35 feet.

## Building Line

Sec. 803. No building or part thereof shall be erected in this district within 25 feet of any street line, except as provided in Section 504 and except that unroofed porches and steps may extend to within not less than 20 feet of the street line. On the side street frontage of corner lots any part of the building may extend to within not less than 10 feet of the street line.

## Side Yards

Sec. 804. All buildings erected in this district shall have side yards not less than 4 feet in width, except that where the wall adjacent and parallel to a side lot line is constructed of masonry or fire resistive materials and is without openings, no side yard shall be required.

## Rear Yards

Sec. 805. All buildings erected in this district shall have rear yards of a depth at least equal to 16 feet for a 1 story building, 18 feet for a 2 story building and 20 feet for a 2½ story building.

## Density of Population

Sec. 806. No building shall be erected or altered in this district which provides less than 450 square feet of floor area per family; said 450 square feet of floor area shall not include any floor space below the first floor. There shall be provided in this district 2000 square feet of lot area per family.

## Article 9

## MULTIPLE-FAMILY RESIDENCE DISTRICT

## Permitted Uses

Sec. 901. No land or building within any district designated in this Ordinance as a Multiple-family Residence district shall be used for other than the following uses:

- Those uses permitted in Section 801 for Terrace or Attached Residence districts.
- Multiple dwellings, hotels and apartment hotels. Garages used only for the storage of automobiles of persons residing in such multiple dwellings, hotels or apartment hotels may be erected as part of such building or on the same lot as an accessory to such building.
- Passenger stations.
- Clubs, social, recreational and community center buildings, excepting those the chief activity of which is a service customarily carried on as a business such as a public dance hall or a public bowling alley.
- Storage garages for the parking or storing of non-commercial motor vehicles.
- A dining room, restaurant, barber shop, florist, confectionery, tobacconist's shop, drug store or similar retail store or service customarily located within an apartment building, hotel or club; provided, however, such use shall be located wholly within a building occupied as permitted in a Multiple-family Residence district and shall be an accessory to such permitted use and provided further, there is no display or advertising sign visible from the exterior of such building.

## Heights

Sec. 902. No building shall be erected in this district the entire volume in cubic feet of which exceeds the area of the lot in square feet multiplied by 40 feet.

## Building Line

Sec. 903. No building or part thereof shall be erected in this district within 25 feet of any street line, except as provided in Section 504 and except that unroofed porches and steps may extend to within not less than 20 feet of the street line. On the side street frontage of corner lots any part of the building may extend to within not less than 10 feet of the street line.

## Side Yards

Sec. 904. All buildings erected in this district shall have side yards as required in Section 604 for Single-family Residence districts; provided that for buildings over 2 stories in height the minimum side yard widths shall be increased 2 feet for each story above the second and the sum of the side yard widths shall be increased 4 feet for each additional story. The minimum side yard widths need not in any case be greater than those required for a 6 story building.

## Rear Yard

Sec. 905. All buildings erected in this district shall have rear yards of a depth at least equal to 16 feet for a 1 story building, 18 feet for a 2 story building, 20 feet for a 3 story building, 24 feet for a 4 story building, 28 feet for a 5 story building, and 32 feet for a building 6 or more stories in height.

## Density of Population

Sec. 906. No building shall be erected or altered in this district which will provide less than 360 square feet of floor area per family. There shall be provided in this district not less than 500 square feet of lot area per family.

## Article 10

## BUSINESS-A DISTRICT

## Permitted Uses

Sec. 1001. No buildings or premises within any district designated in this Ordinance as a Business-A district shall be used for other than the following specified uses:

- Those uses permitted in Section 901 for Multiple-family Residence districts.
- Advertising signs only when pertaining to the sale, rental or use of the premises on which it is located, or to goods sold or activities conducted thereon, or when serving primarily as a directional