

CHAPTER 40

ZONING CODE

ARTICLE I - GENERAL PROVISIONS

40-1-1 TITLE. These regulations shall be known as and may be referred to as the **Zoning Code of the City of Mason City.**

40-1-2 PURPOSE. In accordance with Division 13 of Article 11 of the Illinois Municipal Code (**65 ILCS 5/11-13-1 et seq.**), this Zoning Code establishes zoning regulations and standards for the following purposes:

- (A) To regulate and limit the height and bulk of buildings;
- (B) To regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of open spaces within and surrounding such buildings;
- (C) To classify, regulate and restrict the location of trades and industries and the location of buildings, designed for specified industrial, business, residential and other uses;
- (D) To divide the entire City and the land adjacent to the City limits and located within a distance of **one and one-half (1.5) miles** of the City limits into districts for the purpose of this Zoning Code;
- (E) To fix standards to which buildings or structures shall conform;
- (F) To prohibit uses, buildings, or structures incompatible with the character of such districts respectively; and
- (G) To prevent additions to and alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder, and to provide penalties for violation hereof.

ARTICLE II - DEFINITIONS

40-2-1 INTERPRETATION OF TERMS. In construing the intended meaning of terminology used in this Zoning Code, the following rules shall be observed:

(A) Unless the context clearly indicates otherwise, words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2**; terms not defined in **Section 40-2-2** shall have the meanings respectively ascribed to them in the City's Subdivision Code; if any term is not defined either in **Section 40-2-2** or in the Subdivision Code, said term shall have its standard English dictionary meaning.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and vice versa.

(E) The word "shall" is mandatory; the word "may" is discretionary.

(F) Captions (i.e., titles of sections, subsections, etc.) are intended merely to facilitate general reference and in no way limit the substantive application of the provisions set forth thereunder.

(G) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(H) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

(I) The word "building" shall include the word "structure".

40-2-2 SELECTED DEFINITIONS.

Accessory Buildings: A structure subordinate to the main building, the use of which is incidental to that of the main building or to the main use of the premises. A building or structure need not be permanent or unconnected to the main building to be included within this definition which shall include garages, carports, tool sheds, dog houses, storage sheds, swimming pools, gazebos, decks and other similar structures. A mobile home, trailer, camper or motor vehicle whether modified or not shall not be used as an accessory building.

Alley: A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

Apartment: A room or suite of rooms in a multiple or two-family dwelling, or where more than one living unit is established above non-residential uses, intended or designed for use as a residence by a single family.

Apartment House: See Dwelling Multiple.

Basement: A story having part but not more than **one-half (1/2)** of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

Building: Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property. When a structure is divided into separate parts by unpierced walls extending from the ground up, each part is deemed a separate building.

Building, Height of: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge, for gable, hip and gambrel roofs.

Cellar: A story having more than **one-half (1/2)** of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

District: A section of sections of the City for which the regulations governing the use of buildings and premises, the height of the buildings, the size of yards, and intensity of use are uniform.

Dwelling: Any building or portion thereof, but not a trailer, coach or mobile home which is designed and used exclusively for residential purposes.

Dwelling District: Every district specified in this Zoning Code, except the "E" Outlying Business District, the "F" Central Business District, and the "G" Industrial District is designated as a Dwelling District.

Dwelling, Single-Family: A building designed for or occupied exclusively by one family and excluding mobile homes as defined herein.

Dwelling, Two-Family: A building designed for or occupied exclusively by **two (2) families**.

Family: One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage; but no unrelated group consisting of more than **five (5) persons** shall be considered a family.

Farm: An area which is used for the growing of the usual farm products such as vegetables, fruit, trees, and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term "farming" includes the operating of such an area for one or more of the above uses, including the necessary accessory uses for treating or storing the produce, provided, however, that the operation

of any such accessory uses shall be secondary to that of the normal farming activities, and provided further, that farming does not include the feeding or garbage or offal to swine or other animals.

Filling Station: Any building or premises used for the dispensing, sale, or offering for sale at retail or wholesale of any automobile fuels or oils.

Frontage: All property on one side of a street between two intersection streets (crossing or terminating), measured along the line of a street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

Garage, Class I: An accessory building housing motor-driven vehicle which are the property of and for the private use of the occupants of the lot on which the private garage is located which is capable of accommodating not more than **four (4)** motor vehicles or exceed **twelve hundred (1200) square feet**, whichever is the least. Not more than one of the vehicles may be a commercial vehicle of not more than **three (3) tons** capacity.

Garage, Class II: Any building, or premises, used for housing only of motor-driven vehicles, other than trucks and commercial vehicles, pursuant to previous arrangements and not to transients, and at which automobile fuel and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

Garage, Class III: Any building or premises used for housing, hiring, storing, equipping or repairing of motor-driven trucks, commercial or other vehicles owned, leased or operated by the occupant of the premises in the conduct of or an accessory to a business or occupation.

Garage, Class IV: Any building or premises except those used as a private or storage garage, used for equipping, repairing, hiring, selling or storing motor-driven vehicles.

Grade:

(A) For buildings having walls adjoining one street only, the established elevation of the sidewalk at the center of the wall adjoining the street.

(B) For buildings having walls adjoining more than one street, the average of the established elevation of the sidewalk at the centers of all walls adjoining the streets.

(C) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

(D) Any wall approximately parallel to and not more than **twenty (20) feet** from the street line is to be considered as adjoining the street.

(E) The established natural elevation of any lot without a sidewalk. The term natural elevation as used herein shall mean the average slope per foot between the corners of the block containing such lot which are **ninety (90) degrees** from the side lot lines and as to the rear of a lot which are **ninety (90) degrees** from the side lot lines to the corners of the alley.

Home Occupation: Any occupation or profession carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign, not more than **five (5) square feet** in area, except as provided in **Article V**, or no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises; no person is employed there other than a member of the immediate family residing on the premises; and no mechanical equipment is used except such as is permissible for purely domestic or household purposes. Beauty or barber shops occupying not more than **twenty-five percent (25%)** of the square feet of the residential building, and not employing more than **one (1) person** not residing on said premises, shall not be considered a violation of this Section.

Hotel or Motel: A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding house or lodging house.

Institution: A building occupied by a non-profit corporation or a non-profit establishment for public use.

Lodging House: A building or place where lodging is provided (or which is equipped regularly to provide lodging) by prearrangement for definite period, for compensation, for **three (3)** or more, but not exceeding **twelve (12)** individuals, not open to transient guest, in contradistinction to hotels open to transients.

Lot: A parcel of land occupied or intended for occupancy, by a use permitted in this Zoning Code, including one main building together with its accessory buildings, the open spaces and parking spaces required by this Zoning Code, and must have its principal frontage upon a public street. If the lot lines cannot be readily ascertained, the lot owner shall cause the same to be surveyed at his or her expense and markers placed to clearly define the lot lines.

Lot, Corner: A lot abutting upon **two (2)** or more streets at their intersection.

Lot, Depth of: The mean horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

Lot of Record: A lot which is a part of a subdivision, the map of which has been recorded in the office of the Recorder of Deeds or a parcel of land, the deed to which was recorded in the office of the Recorder of Deeds prior to the date of the adoption of this Zoning Code.

Manufacturing or Industry: Any use in which the major activity is the treatment, processing, rebuilding, repairing or wholesale storage of material, products or items where the finished product is not acquired by the ultimate user on the premises as distinguished from the retail use where the treatment, processing, repairing or storage is secondary to the sale, exchange or repairing of materials or products on the premises.

Nonconforming Structure: A structure lawfully existing at the time of the adoption of the Ordinance for this Zoning Code, or any amendment thereto, and which does not conform to the regulations of the District in which it is located.

Nonconforming Use: Any building or land lawfully occupied by a user at the time of passage of the original zoning ordinance or any amendment thereto, which does not conform after the passage of the zoning ordinance or amendment thereto with the use or regulations of the District in which it is situated. For the purpose of this Zoning Code, any lawful use on the effective date of the adopting Ordinance for this Zoning Code which is nonconforming solely by virtue of lacking off-street parking or loading facilities as required hereafter for new uses shall not be deemed a nonconforming use.

Parking Space: A durably surfaced area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one standard automobile and if the space is unenclosed comprising an area which shall be a minimum dimension of **ten (10) feet** in width by **twenty (20) feet** in depth, exclusive of a durably surfaced driveway connecting the parking space with a street or alley and permitting satisfactory ingress and egress of an automobile. Durable surfaced area, in out-lying business districts, central business district and industrial district shall consist of concrete or other dust free material. Parking space, required herein, shall be located on the lot at some place other than the front yard.

Rooming House: See Lodging House.

Row House: A group of **two (2)** or more but not exceeding **four (4)** single-family dwellings, separate by walls without opening, not more than **two (2) rooms** deep.

Service Establishments: Shops wherein the major activities are the repair and maintenance of wearing apparel, sporting goods, and articles for use in the home including household appliances.

Stable: A building accommodating one or more horses.

Street: All property dedicated or intended for public or private street, highway, freeway, or roadway purposes or subject to easements therefore.

Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street.

Story: That portion of a building other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor about it, then the space between the floor and the ceiling next above it.

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall space not more than **three (3) feet** above the top floor level, and in which space not more than **sixty percent (60%)** of the floor area is finished off for use.

Structure: Anything constructed or erected located on the ground or attached to anything on the ground or affixed to the ground, whether permanent, portable or temporary including but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts, storage buildings, accessory buildings or pergolas.

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Tourist or Trailer Camp: An area containing **one (1)** or more structures designed or intended to be used as temporary living facilities of **two (2)** or more families, and intended primarily for automobile transients or providing spaces where **two (2)** or more tent or auto trailers can be or are intended to be parked.

Trailer or Mobile Home:

(A) **Definition of a Mobile Home:** A Mobile Home is a single width dwelling unit, usually factory built and assembled, designed for conveyance after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor incidental unpacking, assembly operations and connections to utilities and having no need for a foundation and has a width of less than **twenty (20) feet**. The term width as used herein means the shortest outside dimension of the mobile home at any location. Removal of wheels, towing devices or any other alteration does not qualify a mobile home as a conventional single-family dwelling.

(B) **Definition of a Modular Home:** A modular home also includes **two (2)** or more units which are separately transportable components designed to be joined into an integral dwelling unit at its destination. The removal of wheels, towing devices together with its placement upon a continuous perimeter, permanent masonry foundation which extends below ground at least **thirty-six (36) inches** and above

ground to the bottom of the deck of a modular home and is a minimum of **four (4) inches** in width, and other alterations does qualify a modular home as a single family dwelling as fined herein. The term masonry means brick, concrete block or poured cement or concrete.

Yard: An open space on the same lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determine the width of a side yard, the depth of the front yard, or the depth of a rear yard, the mean minimum horizontal distance between the lot line and the main building shall be used.

Yard, Front: A yard extending across the front of a lot between the side yard lines, and being the mean minimum horizontal distance between the street line and the main building or any projection thereof. The foregoing shall not prohibit the projection into the front yard of any projection from the main building constituting a platform entrance way extending out not more than **four (4) feet** from the main building, with the necessary and usual steps; window and door canopies which are affixed to and solely supported by the building and which are at least **eight (8) feet** above the ground and which do not extend more than **four (4) feet** from the structure at the place at which it is attached; and roof overhang at least **eight (8) feet** above the ground.

Yard, Rear: A yard extending across the rear of a lot, measured between the side lot lines, and being the mean minimum horizontal distance between the rear lot line and the rear of the main yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side: A yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard line.

ARTICLE III – DISTRICTS; MAP

40-3-1 DISTRICTS ESTABLISHED. In order to classify, regulate and restrict the locations of trades, industries and the location of buildings designated for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit the intensity of the use of the lot areas, and to regulate and determine the areas of yards, courts and other open spaces within and surrounding such buildings, the City is hereby divided into districts, of which there shall be **seven (7)** in number, known as:

"A"	Country District
"B"	Seven Thousand Five Hundred Square Foot Single-Family District
"C"	Two-Family District
"D"	Multiple-Family Dwelling District
"E"	Outlying Business District
"F"	Central Business District
"G"	Industrial District

40-3-2 DISTRICT MAP. The boundaries of the districts are shown upon the map which is made a part of this Zoning Code, which map is designated as the "District Map". The District Map and all notations, references and other information shown thereon are a part of this Zoning Code and have the same force and effect as if the District Map and all the notations, references and other information shown thereon were all fully set forth or described herein, the original of which District Map is properly attested and is on file with the Clerk of the City.

40-3-3 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the boundaries of the various districts as shown in the map accompanying and made a part of this Zoning Code, the following rules apply:

(A) The District boundaries are either streets or alleys unless otherwise shown and where the districts designated on the map accompanying and made a part of this Zoning Code are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.

(B) Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of this Zoning Code are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

(C) In unsubdivided property the district boundary lines on the map accompanying and made a part of this Zoning Code shall be determined by use of the scale appearing on the map.

40-3-4 ANNEXED LAND. All property hereafter annexed to the City shall be classified as a Class A district if said property so annexed constitutes an area of **five (5) acres**, or more, and has not been laid out into lots, and shall be classified as a Class B district if said property so annexed constitutes an area of less than **five (5) acres**, or has been laid out into lots. Otherwise, all other property annexed to the City shall be classified into the district equivalent or most similar to the zoning classification for the property immediately preceding annexation.

40-3-5 STREETS AND PUBLIC WAYS. Whenever any street, alley, or other public way is vacated, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such a vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

40-3-6 GENERAL REGULATIONS. Except as hereinafter specifically provided in this Zoning Code:

(A) No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose permitting in the district in which the building or land is located.

(B) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located.

(C) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located.

(D) The minimum yards and other open spaces, including lot area per family, required by this Zoning Code for each and every building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other building.

(E) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in this Zoning Code.

(F) The front yard requirements on both streets of a corner lot shall be observed for all buildings and structures, including accessory buildings.

ARTICLE IV**"A" COUNTRY DISTRICT REGULATIONS**

40-4-1 PURPOSE. The regulations set forth in this Article, or set forth elsewhere in this Zoning Code when referred to in this Article, are the district regulations in the "A" Country District.

40-4-2 PERMITTED USES. A building or premises shall be used only for the following purposes:

Farms, excluding the raising of livestock except on adequately fenced tracts, but in no event shall such livestock or poultry be housed or confined within **two hundred (200) feet** of a tract of **one (1) acre** or less containing a single-family resident.

Single-family dwellings.

Truck and flower gardening, nurseries, orchards, and greenhouses.

Public and private forests, nurseries and wildlife reservations or similar conservation projects.

Parks and playgrounds owned by public agencies.

Gold courses and private clubs, except miniature golf courses and practice driving tees and similar commercial enterprises.

Churches, but only when off-street parking space is provided upon the lot or within **two hundred (200) feet** thereof, which space is adequate to accommodate one car for every **eight (8) persons** for which seating is provided in the main auditorium of the church and exclusive of the seating capacity of Sunday School and other special rooms.

Riding academies operated on a commercial basis.

Public schools, elementary and high, and private schools having a curriculum the same as ordinarily given in public schools, and having no rooms regularly used for housing or sleeping purposes.

Private clubs, except skeet and gun clubs and other clubs, the chief activity of which is a service customarily carried on as a business.

Accessory buildings and accessory uses customarily incident to the above uses, not involving the conduct of a business, including home occupations where no name plate is used in connection with said use which exceeds **two (2) square feet** in area, farm buildings and one Class I garage and one private stable. Any accessory building that is not a part of the main structure shall be located not less than **sixty (60) feet** from the front lot line. Accessory buildings shall also include church or similar bulletin boards, and signs not exceeding **twelve (12) square feet** in area appertaining to the lease, hire or sale of a building or premises, which boards or signs shall be removed as soon as the premises are leased, hired, or sold, and provided further that not more than one sign of the above character shall be permitted upon any lot.

40-4-3 PARKING REGULATIONS. Any use that is constructed or reconstructed in the "A" Country District shall provide and maintain adequate parking space upon the lot or tract.

40-4-4 HEIGHT REGULATIONS. No building hereafter erected or altered shall exceed **two and one-half (2.5) stories** or shall it exceed **forty (40) feet** in heights, except as provided in **Article XIV**.

40-4-5 AREA REGULATIONS.
(A) **Yards.** No building shall be erected within **fifty (50) feet** of any property or street line.

(B) **Intensity of Use.** Every lot or tract of land upon which a building is erected shall have an area of not less than **three (3) acres** and an average width of not less than **two hundred fifty (250) feet**, except that any of the uses permitted in this district may be erected or constructed on a smaller lot of record.

**ARTICLE V – "B" SEVEN THOUSAND FIVE HUNDRED SQUARE FOOT
SINGLE-FAMILY DWELLING DISTRICT REGULATIONS**

40-5-1 PURPOSE. The regulations set forth in this Article or set forth elsewhere in this Zoning Code when referred to in this Article are the district regulations in the "B" Seven Thousand Five Hundred Square Foot Single-Family Dwelling District.

40-5-2 PERMITTED USES. A building or premises shall be used only for the following purposes:

Single-family dwellings.

Modular Homes, as defined herein, as long as the shortest outside dimension, either width or length is a minimum of **twenty (20) feet** and the longest outside dimension does not exceed a ratio of **four (4) foot to one (1) foot** as to the shortest dimension to the longest dimension.

Parks, playgrounds and community buildings owned or operated by public agencies.

Public libraries.

Public schools, elementary and high, or private schools having a curriculum equivalent to a public elementary school, public high school or public institution of higher learning, and having no rooms regularly used for housing or sleeping purposes.

Gold courses, except miniature courses and driving tees and similar commercial enterprises.

Churches, but only when off-street parking space is provided upon the lot or within **two hundred (200) feet** thereof, which space is adequate to accommodate one car for every **eight (8) persons** for which seating is provided in the main auditorium of the church.

Accessory buildings, including portable buildings, and also including a Class I garage and accessory uses customarily incidental to the above uses, and home occupations, not involving the conduct of a business. Any accessory building that is not a part of the main structure shall be located not less than **forty (40) feet** from the front lot line. Temporary signs appertaining to the lease, hire or sale of a building or premises, not exceeding **ten (10) square feet** in area may be erected in the front yard, and church or public building bulletin boards, not exceeding **forty (40) square feet** in area, may be erected in the front yard but the same must be at least **twenty (20) feet** from the side yard line on either side.

40-5-3 FENCES. Any fence must have its fence posts and supports located on the interior side of the fence as viewed from a location other than the lot where the fence is located.

*15 ft from
center alley*

40-5-4 PARKING REGULATIONS. Any use, other than churches, that is constructed or reconstructed in the "B" Seven Thousand Five Hundred Square Foot Single-Family District shall provide and maintain an adequate parking space, either upon the front, side or rear yard of the lot or tract of within **three hundred (300) feet** thereof.

40-5-5 HEIGHT REGULATIONS. No building shall exceed **two and one-half (2.5) stories** nor shall it exceed **thirty-five (35) feet** in height except as provided in **Article XIV** hereof.

40-5-6 AREA REGULATIONS.
(A) Front Yard.

- (1) There shall be a front yard having a depth of not less than **twenty-five (25) feet**, unless **thirty percent (30%)** or more of the frontage is improved within buildings that have observed a greater or lesser depth of front yard in which instance no new building or portion thereof shall project beyond a straight line drawn between the points closest to the street line of the residences upon either side of the proposed structure, or if there be residences upon only one side, then beyond the straight line projected from the front of the **two (2)** nearest residences, but this regulation shall not be interpreted to require a front yard of more than **sixty (60) feet**, nor to permit a front yard of less depth than **fifteen (15) feet** to the street line. Any existing structure having a setback less than herein required may be extended on either side providing that such new construction shall not extend near the front lot line than the existing structure.
- (2) Where lots have a double frontage, the required front yard shall be provided on both streets.
- (3) On a corner lot there shall be the required front yard on the front street and the yard on the other street must be at least **ten (10) feet** in width. The buildable width of a corner lot need not be reduced to less than **thirty-two (32) feet**. No accessory building shall project beyond the front yard line on either street.
- (4) A front yard may not be used for the erection of any structure, building, accessory building or used for the storage of any personal property.

(B) **Side Yard.**

- (1) Except as hereinafter provided in the following paragraph and in **Article XII** there shall be a side yard on each side of a building, having a width of not less than **six (6) feet**, except that existing buildings having a side yard of less than **six (6) feet** may be extended to the front or to the rear so long as the required front setback line is maintained.
- (2) Whenever a lot of record has a width of less than **fifty (50) feet**, the side yard on each side of a building may be reduced to a width of not less than **twelve percent (12%)** of the width of the lot, but in no instance shall it be less than **five (5) feet**.

(C) **Rear Yard.** Except as hereinafter provided in **Article XIV** hereof, there shall be a rear yard having a depth of not less than **thirty (30) feet** or **twenty percent (20%)** of the depth of the lot, whichever amount is smaller, except that accessory buildings may be built in the rear yard but not nearer than **five (5) feet** to the alley.

(D) **Intensity of Use.** Every lot upon which a building is erected shall have an area of not less than **seven thousand five hundred (7,500) square feet**, and an average width of not less than **fifty (50) feet**.

ARTICLE VI – "C" TWO-FAMILY DWELLING DISTRICT REGULATIONS

40-6-1 **PURPOSE.** The regulations set forth in this Article, or set forth elsewhere in this Zoning Code when referred to in this Article, are the "C" Two-Family Dwelling District regulations.

40-6-2 **PERMITTED USES.** A building or premises shall be used only for the following purposes:

Any use permitted in the "B" Seven Thousand Five Hundred Square Foot Single-Family Dwelling District.

Two-Family Dwellings.

Private clubs and lodges except those the chief activity of which is a service customarily carried on as a business, and where no living quarters are provided for persons to reside upon the premises.

Accessory buildings and uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business, including a Class I garage, when located not less than **sixty (60) feet** from the front lot line or a Class I garage constructed as a part of the main building.

40-6-3 **PARKING REGULATIONS.** Whenever a structure is erected, converted, or structurally altered for a two-family dwelling, **one (1)** parking space shall be provided and maintained on the lot for each dwelling unit in the structure. Any use constructed upon this Article other than as a Two-Family Dwelling Unit, shall provide adequate parking space either on the lot or tract or within **three hundred (300) feet** thereof.

40-6-4 **HEIGHT REGULATIONS.** No building shall exceed **two and one-half (2.5) stories** nor shall it exceed **thirty-five (35) feet** in height, except as provided in **Article XIV** hereof.

40-6-5 **AREA REGULATIONS.**

(A) **Front Yard.** The front yard regulations are the same as those in the "B" Seven Thousand Five Hundred Square Foot Single-Family Dwelling District.

(B) **Side Yard.** Except as hereinafter provided in **Article XIV**, there shall be a side yard on each side of a building, having a width of not less than **five (5) feet**.

(C) **Rear Yard.** Except as hereinafter provided in **Article XIV** hereof, there shall be a rear yard having a depth of not less than **twenty-five (25) feet** or **twenty percent (20%)** of the depth of the lot, whichever amount is smaller.

(D) **Intensity of Use.** Except as hereinafter provided, every dwelling hereafter erected, enlarged, relocated, or reconstructed, shall be located upon lots containing the following areas and widths:

- (1) A lot on which there is erected a single-family dwelling shall contain an area of not less than **six thousand (6,000) square feet** per family, and an average width of not less than **fifty (50) feet**, and must have its principal frontage upon a public street.
- (2) A lot on which there is erected a two-family dwelling shall contain an area of not less than **three thousand (3,000) square feet** per family and an average width of not less than **fifty (50) feet**.

ARTICLE VII – "D" MULTIPLE-FAMILY DWELLING DISTRICT REGULATIONS

40-7-1 PURPOSE. The regulations set forth in this Article, or set forth elsewhere in this Zoning Code when referred to in this Article are the district regulations in the "D" Multiple Dwelling District.

40-7-2 PERMITTED USES. A building or premises shall be used only for the following purposes:

Any use permitted in the "C" Two-Family Dwelling District.

Multiple-Family Dwellings.

Row houses.

Boarding and lodging houses.

Institutions of a religious, educational, eleemosynary, or philanthropic nature, but not penal or mental institutions.

Hospitals, and clinics, except animal hospitals, animal clinics or mental hospitals.

Fraternities, sororities, private clubs, lodges, excepting those the chief activity of which is a service customarily carried on as a business.

Accessory buildings and uses customarily incident to any of the above uses, including Class II garages, where the lot is occupied by a multiple dwelling, hospital or institutional building. Any Class II garage or accessory building that is not a part of the main building shall be located not less than **sixty (60) feet** from the front lot line and not less than **five (5) feet** from any side lot line.

40-7-3 PARKING REGULATIONS. The parking regulations for multiple-family dwellings are the same as those in the "C" Two-Family Dwelling District. Where a lot is occupied by a multiple dwelling, there shall be provided and maintaining adequate parking space on the side or rear yard of the lot, or within **two hundred (200) feet** thereof, available to and adequate to accommodate **one and one-half (1.5) cars** for each dwelling unit in the multiple dwelling. Any other use that is constructed or reconstructed in conformity with the use regulations of the "D" Multiple Dwelling District shall provide and maintain adequate parking space either on the side or rear yard of the lot or within **three hundred (300) feet** thereof.

40-7-4 HEIGHT REGULATIONS. No building shall exceed **two and one-half (2.5) stories** nor shall it exceed **thirty-five (35) feet** in height, except as provided in **Article XIV** of this Zoning Code.

40-7-5 AREA REGULATIONS.

(A) **Front Yard.** The front yard regulations are the same as those in the "B" Seven Thousand Five Hundred Square Foot Single-Family Dwelling Districts.

(B) **Side Yard.** Except as hereinafter provided in **Article XIV** there shall be a side yard on each side of a building, having a width of not less than **five (5) feet.**

(C) **Rear Yard.** Except as hereinafter provided in **Article XIV** hereof, there shall be a rear yard having a depth of not less than **twenty-five (25) feet** or **twenty percent (20%)** of the depth of the lot, whichever amount is smaller.

(D) **Intensity of Use.** Except as hereinafter provided, every dwelling hereafter erected, enlarged, relocated, or reconstructed, shall be located upon lots containing the following areas and widths.

- (1) A lot on which there is erected a single-family, a two-family, a three-family, or a four-family dwelling shall contain an area of not less than **six thousand (6,000) square feet**, and an average width of not less than **fifty (50) feet.**
- (2) A lot on which there is erected a multiple dwelling for **five (5)** or more families shall contain an area of not less than **one thousand five hundred (1,500) square feet** per family and an average width of not less than **fifty (50) feet.**

ARTICLE VIII – "E" OUTLYING BUSINESS DISTRICT REGULATIONS

40-8-1 PURPOSE. The regulations set forth in this Article, or set forth elsewhere in this Zoning Code when referring to in this Article, are the regulations in the "E" Outlying Business District.

40-8-2 PERMITTED USES. A building or premises shall be used only for the following purposes:

Any use permitted in the "D" Multiple Dwelling Districts.

Bakery whose products are sold at retail on the premises.

Bank.

Barber shop or beauty parlor.

Business or commercial school, or dancing or music academy.

Catering establishments.

Electric and shoe repair shops.

Filling stations.

Hospitals and clinics for animals, but not open kennels.

Messenger or telegraph service station.

Office.

Painting and decorating shop.

Photograph gallery.

Class IV garage, except that the repair or storage portion of such building shall occupy not more than **fifty percent (50%)** of the total floor area and shall be not less than **thirty (30) feet** from the front of the building, and no lot or portion thereof shall be used for the display of used cars.

Recreation or amusement building.

Restaurant.

Sales or show room.

Store or shop for the conduct of a retail business.

Store for the collection and distribution of laundry and dry cleaning articles, but not for the treatment, cleaning or processing of such articles.

Theatre, except open-air drive-in theatres; provided, however, that no theatre shall be erected or reconstructed unless there is provided on the same lot, or within **three hundred (300) feet** thereof, parking space which contains an area adequate to accommodate **one (1)** automobile for every **five (5) seats** in the theatre.

Tailor shop.

Tire repair shop.

Undertaking establishment.

Service establishments.

Accessory buildings and uses customarily incident to the above uses, including a sign or bulletin board relating only to services, articles and products offered within the building to which the sign is attached.

Any building used primarily for any of the above enumerated purposes may have not more than **forty percent (40%)** of the floor area devoted to industry or storage purposes incidental to such primary use; provided, that not more than **five (5) employees** shall be engaged at any time on the premises in such incidental use.

40-8-3 PARKING REGULATIONS. The parking regulations for uses permitted in the "D" Multiple Family Dwelling District shall apply to such uses when located in the "E" Outlying Business District.

Whenever a structure is erected or reconstructed for any of the other purposes permitted in this district, there shall be provided a parking place of at least **two hundred (200) square feet** for the maximum number of employee of said business at any one time, except that any recreation or amusement building or any restaurant or establishment whose primary use is to serve meals, lunches or drinks to patrons, either in their cars or in the building, shall provide parking spaces on the lot in the ratio of not less than **one (1) parking space** of at least **two hundred (200) square feet** for each **one hundred (100) square feet** of floor space in the building. Such parking space may be located on the same lot as the building or on an area within **three hundred (300) feet** of the building. **Two (2)** or more owners of buildings may join together in providing this parking space, provided that the minimum requirements of this paragraph are maintained.

40-8-4 HEIGHT REGULATIONS. No building shall exceed **two and one-half (2.5) stories** nor shall it exceed **thirty-five (35) feet** in height, except as provided.

40-8-5 AREA REGULATIONS.

(A) **Front Yard.** The front yard regulations are the same as those in the "B" Seven Thousand Five Hundred Square Foot Single-Family Dwelling Districts.

(B) **Side Yard.** The side yard regulations for uses permitted in the "D" Multiple Family Dwelling District when located in the "E" Outlying Business District are the same as those in the "C" Two-Family Dwelling District. Where a corner lot is used for any of the commercial purposes permitted in this district the yard on the side of a lot adjacent to the street shall not be less than **ten (10) feet** in width, except that the buildable width of the lot shall not be reduced to less than **twenty-five (25) feet**. In all other cases a side yard is not required except on the side of a lot abutting on a dwelling district, in which case there shall be a side yard of not less than **five (5) feet**.

(C) **Rear Yard.** Except as hereinafter provided in **Article XIV** there shall be a rear yard having a depth of not less than **twenty-five (25) feet**, unless the lot is less than **one hundred twenty-five (125) feet**, in which case the rear yard need not exceed **twenty percent (20%)** of the depth of such lot.

(D) **Intensity of Use.** When a lot is improved with a single-family dwelling or two-family dwelling, the intensity of use regulations shall be the same as those required in the "C" Two-Family Dwelling Districts. When a lot is improved with a multiple dwelling or when living facilities are erected above stores, there shall be a lot area per family of not less than **three thousand (3,000) square feet**. Where a lot of record contains less than **three thousand (3,000) square feet**, it may contain living facilities for not more than **one (1) family**.

ARTICLE IX – "F" CENTRAL BUSINESS DISTRICT REGULATIONS

40-9-1 PURPOSE. The regulations set forth in this Article, or set forth elsewhere in this Zoning Code when referred to in this Article, are the regulations in the "F" Central Business Districts.

40-9-2 PERMITTED USES. A building or premises shall be used only for the following purposes:

Any use permitted in the "E" Outlying Business Districts.

Advertising signs and bulletin boards.

Bakery.

Dyeing and cleaning works using a cleaning fluid whose base is of a material other than petroleum or one of its derivatives.

Hotel.

Laundry.

Plumbing shop.

Printing shop.

Class III and Class IV garages and automobile sales room.

Tinsmithing shop.

Used car sales or storage lots, but excluding salvage of automobiles or of automobile parts.

Any building used primarily for any of the above enumerated purposes may have not more than **forty percent (40%)** of the floor area devoted to industry or storage purposes incidental to such primary use.

40-9-3 PARKING REGULATIONS. The parking regulations for uses permitted in the "D" Multiple Family Dwelling District shall apply to such uses when located in the "F" Central Business District. No parking space shall be required in the "F" Central Business Districts in any other instances.

40-9-4 HEIGHT REGULATIONS. No building shall exceed **three (3) stories** nor shall it exceed **forty-five (45) feet** in height, except as otherwise provided in **Articles XII** and **XIV** hereof.

40-9-5 AREA REGULATIONS.
(A) Front Yard. No front yard is required except where the frontage on one side of a street between two intersecting streets is partly in the "F" Central Business District and partly in a dwelling district in which event the front yard regulations of a

dwelling district shall apply, and also except any single-family dwelling located in the "F" Central Business District must maintain the setback requirements contained in the "B" Seven Thousand Five Hundred Square Foot Single-Family Dwelling District.

(B) **Side Yard.** No side yard shall be required except that for dwellings or buildings abutting a "B" Seven Thousand Five Hundred Square Foot Single-Family Dwelling District, the side yard regulations are the same as those in the "E" Outlying Business Districts.

(C) **Rear Yard.** The rear yard regulations for dwellings are the same as in the "D" Multiple Dwelling Districts. In all other cases a rear yard is not required except where a lot abuts upon a dwelling district, in which case there shall be a rear yard with a depth of not less than **fifteen (15) feet.**

(D) **Intensity of Use.** When a lot is improved with a single-family dwelling, two-family dwelling, or a multiple dwelling or when living facilities are erected above the other uses, the intensity of use regulations are the same as those required in the "D" Multiple Dwelling Districts.

ARTICLE X – "G" INDUSTRIAL DISTRICT REGULATIONS

40-10-1 PURPOSE. The regulations set forth in this Article, or set forth elsewhere in this Zoning Code when referred to in this Article, are the regulations in the "G" Industrial Districts.

40-10-2 PERMITTED USES. A building or premises shall be used only for the following purposes:

Any use permitted in the "F" Central Business Districts.

Blacksmithing shop.

Bottling works.

Dyeing and cleaning establishments.

Grain elevator and grain storage facilities.

Milk distribution station.

Lumber or building materials yard.

Trailer court.

Wholesale establishments.

Warehouses and storage plants.

Coal yards.

Wholesale storage of oil, gasoline or other petroleum products.

Printing plants.

Public utility substations and facilities.

Junk yards, but only when the area of such lot or tract devoted to such use is covered by a building in conformity with the Building Code requirements of the City.

Industrial and manufacturing plants, where the operations are conducted in one or more buildings and not more than **ten percent (10%)** of the lot or tract is used for open storage of products, materials or equipment.

40-10-3 HEIGHT REGULATIONS. No building shall exceed **three (3) stories** or shall it exceed **forty-five (45) feet** in height.

40-10-4 PARKING REGULATIONS. The parking regulations for uses permitted in the "E" Outlying Business District shall apply to such uses when located in the "G" Industrial District. Parking space of at least **two hundred (200) square feet** shall be provided on the lot or in a building on the lot adequate to accommodate the cars of the employees for the shift having the maximum number of employees of any of the uses permitted in this district, as well as the trucks and other vehicles owned by or in custody of the establishment, and for loading and storage purposes.

40-10-5 AREA REGULATIONS.

(A) **Front Yard.** The front yard regulations are the same as those in the "F" Central Business Districts.

(B) **Side Yard.** The side yard regulations for dwellings are the same as those in the "D" Multiple Dwelling Districts. In all other cases a side yard is not required except on the side of a lot adjoining a dwelling district, in which case there shall be a side yard of not less than **ten (10) feet**.

(C) **Rear Yard.** The rear yard regulations for dwellings are the same as in the "D" Multiple Dwelling Districts. In all other cases a rear yard is not required except where a lot abuts upon a dwelling district, in which case there shall be a rear yard of not less than **twenty (20) feet**.

(D) **Intensity of Use.** When a lot is improved with a single-family dwelling or two-family dwelling, the intensity of use regulations shall be the same as those required in the "C" Two-Family Dwelling Districts. When a lot is improved with a multiple dwelling or when living facilities are erected above stores there shall be a lot area per family of not less than **three thousand (3,000) square feet**. Where a lot of record contains less than **three thousand (3,000) square feet** it may contain living facilities for not more than **one (1) family**.

ARTICLE XI - NONCONFORMING USES

40-11-1 POLICY. Any lawful use, structure, or lot existing at the effective date of the adopting Ordinance of this Zoning Code or subsequent amendment thereto, and located in a zoning district in which the use, structure, or lot would not be permitted under the terms of this Zoning Code or any subsequent amendment thereto, is declared to be a legal nonconforming use within the guidelines and regulations established in this Article. Except as specifically noted in this Article, it is hereby declared to be the intent of this Zoning Code to permit these legal nonconforming uses to continue until terminated by voluntary act or by catastrophic event and to encourage the conversion of these legal nonconforming uses to conforming uses wherever and whenever possible.

40-11-2 DISCONTINUANCE OF NONCONFORMING USES. The lawful use of land for storage purposes (where such use is not an adjunct of any structure) and for advertising signs and billboards which does not conform to the provisions of the Zoning Code and thereby become nonconforming under the provisions of this Zoning Code shall be discontinued within **five (5) years** from the date of the approval of the Ordinance so amending the Zoning Code, and the same uses of land which become nonconforming by reason of a subsequent change in this amending Ordinance shall also be discontinued within **five (5) years** from the date of the change.

40-11-3 NONCONFORMING USES. The lawful use of a building existing at the time of the adoption of this Zoning Code may be continued, subject to the provisions of this Zoning Code, although such use does not conform with the provisions hereof. If no structural alterations are made after a public hearing, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed. Additionally, the following provisions shall apply:

(A) Whenever a nonconforming use of a building has been changed to a more restricted use or to a conforming use, such shall not thereafter be changed to a less restricted use.

(B) No building which has been damaged by fire, explosion, act of God or the public enemy, to the extent of more than **fifty percent (50%)** of its value, shall be restored except in conformity with the regulations of this Zoning Code.

(C) In the event that a nonconforming use of any building or premises is discontinued or its normal operations stopped for a period of **one (1) year**, the use of the same shall thereafter conform to the regulations of the district in which it is located.

40-11-4 TRAILERS AND MOBILE HOMES. Trailers and Mobile Homes, regardless of when placed upon the property, except those located in mobile home parks, shall be removed from said premises on or prior to **January 1, 1990**. The removal of a trailer or mobile home from the property prior to said date shall automatically bar a different mobile home to be placed on said premises.

40-11-5 COMMERCIAL AND INDUSTRIAL BUILDINGS AND DWELLING DISTRICTS. Except as hereinafter provided, all nonconforming commercial or industrial buildings located within any dwelling district shall be removed or converted, and the building thereafter devoted to a use permitted in the District in accordance with the following schedule:

(A) In the case of buildings erected before **January 1, 1930**, on or before **January 1, 1985**.

(B) In the case of buildings erected between **January 1, 1930** and **January 1, 1940**, on or before **January 1, 1990**.

(C) In the case of buildings erected between **January 1, 1940** and **January 1, 1950**, on or before **January 1, 1995**.

(D) In the case of buildings erected since **January 1, 1950**, within **forty (40) years** from the date it was erected.

ARTICLE XII - SPECIAL USES

40-12-1 POLICY; PURPOSE. A "special-use" is a use, which by its unique characteristics and nature, is necessary to desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning districts established under the City Code. Thus, the policy and purpose of this Article is to provide a means of permitting certain exceptions to the zoning districts established under the City Code when certain conditions exist to warrant such special use. In the case of a permissible special use that would otherwise be an exception to the zoning rules and regulations adopted herein, the public benefit of such special use outweighs the potential harm to the public welfare and to the adjacent property owners under such conditions imposed as are necessary to protect the public health, safety and welfare, and individual property rights of adjacent property owners.

40-12-2 AUTHORIZED SPECIAL USES. The City Council may, by special use permit, after public hearing held by the Zoning Board, and subject to such protective restrictions that it deems necessary authorize the location, extension or structural alteration of any of the following buildings or uses, or an increase in their height, in any district from which they are prohibited or omitted by this Zoning Code; provided that such buildings or uses will not have any serious and depreciating effect upon the value of surrounding property:

Any public building erected and used by any department of a Municipal, County, State or Federal Government.

Hospitals, clinics and institutions, except institutions for criminals and those for person who are mentally ill or have contagious diseases; provided, however that such buildings may occupy not over **fifty percent (50%)** of the total area of the lot or tract and provided further, that the buildings shall be set back from all yard lines heretofore established an additional distance of not less than **two (2) feet** for each foot of building height, and that adequate off-street parking space will be provided.

Cemetery or mausoleum.

Airport, landing field, or landing strip.

Greenhouse, provided that any such structures shall not be less than **one hundred (100) feet** from all property lines.

Nurseries and truck gardens.

Riding stables.

Roadside stands, commercial amusement or recreational development for temporary or seasonal periods.

Extraction of gravel, sand or other raw materials.

Parking lots on land not more than **three hundred (300) feet** from the boundary of any commercial business or industrial districts, under such conditions as will protect the character of surrounding property.

Areas for the dumping or disposal of trash or garbage.

Radio towers and radio broadcasting stations.

Hotels where the primary purpose is to provide seasonal or year round living facilities, but only when they are located upon large tracts and would not adversely affect surrounding residential development.

Any use which is generally similar to the uses permitted in the district in which such proposed use is sought to be located by special permit which conforms to the regulations for such district.

40-12-3 REVIEW PROCEDURE. Before issuance of any special use permit for any of the above buildings or uses, the Zoning Board shall report to the City Council regarding the public hearing. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the Zoning Board has been filed, but such report shall be made within **sixty (60) days** after the matter has been referred to the Zoning Board by the City Council. If the Zoning Board recommends against the issuance of the special use permit, then it may be issued only by an affirmative **two-thirds (2/3)** vote of the City Council.

ARTICLE XIII – COMMUNITY UNIT PLAN

40-13-1 REQUIREMENTS. The owner or owners of any tract of land comprising an area of not less than **twenty (20) acres** may submit to the City Council a plan for the use and development of all of the tracts of land for residential and allied purposes. The development plan shall be referred to the Zoning Board for study and report and for public hearing. If the Zoning Board approves the plans, they shall then be submitted to the City Council for consideration and approval. The approval and recommendations of the Zoning Board shall be in a letter form and in the Zoning Board minutes stating the reasons for approval of the application and specific evidence and facts showing that the proposed community unit plan meets with the following conditions:

(A) The property adjacent to the area included in the plan will not be adversely affected.

(B) That the plan is consistent with the intent and purposes of this Zoning Code to promote public health, safety, morals and general welfare.

(C) That the buildings shall be used only for single-family dwellings, two-family dwellings, or multiple dwellings, and the usual accessory uses such as garages, storage space, or community activities, including churches.

(D) That the average lot area per family contained in the site, exclusive of the area occupied by streets, will be not less than the lot area per family required in the district in which the development is located.

40-13-2 NONCOMPLIANCE WITH ZONING CODE REGULATIONS. If the City Council approves the plans, building permits and certificates of occupancy may be issued even though the use of the land and the location of the buildings to be erected in the area, and the yards and open spaces contemplated by the plan, do not conform in all respects to the district regulations of the district in which it is located.

ARTICLE XIV - VARIATIONS

40-14-1 POLICY. When a property owner shows that a strict application of the terms of this Zoning Code relating to the use, construction or alteration of buildings or structures, or to the use of land, imposed upon him present practical difficulties or particularly hardship, then the Zoning Board may recommend in writing the variations of the strict application of the terms of this Zoning Code as are in harmony with its general purpose and intent when the Board is satisfied, under the evidence heard before it that a granting of such variation will not merely serve as a convenience to the applicant but is necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variation, provided that no variation shall be recommended by the Board if it would likely result in the depreciation of the value of neighboring property.

40-14-2 REVIEW PROCESS. The Zoning Board shall make recommendation to the City Council for the granting or denial of a variation from the terms of this Zoning Code as provided by statute. The Zoning Board shall make a written report to the City Council of its favorable or unfavorable findings within **thirty (30) days** after its hearing on a variation request. All variations recommended for approval or denial by the Zoning Board shall be subject to final approval of the City Council and a denial by the City Council of a recommended variation by the Zoning Board shall be subject to administrative review by the Circuit Court. If the Zoning Board recommends the variation issuance together with a proposed variation containing recommended language and restrictions of such variation then recommendation shall be denied only by vote of **two-thirds (2/3)** of the City Council against the granting of such variation.

40-14-3 REVIEW STANDARDS. In considering all appeals and all proposed variations to this Zoning Code, the Zoning Board shall, before making any recommendation for a variation from this Zoning Code in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City. The concurring vote of **four (4) members** of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which it is authorized by this Zoning Code to render a decision.

40-14-4 NOTICE. The Zoning Board shall make no recommendation except in a specific case and after a public hearing conducted by the Board. A notice, by the City after forms have been filed by applicant, of the time and place of such public hearing shall be published in a paper of general circulation in the City at least **fifteen (15) days** previous to the hearing. The applicant shall send written notice mailed at least **fifteen (15) days** previous to the hearing by certified mail with a return receipt to all property owners owning property within **one hundred fifty (150) feet** to the property coming on for hearing. Such notice shall contain the address or location of the property for which the variation or other ruling by the Board is sought as well as a brief description of the nature of the appeal.

40-14-5 PERMITTED VARIATIONS. The district regulations hereinafter set forth in this Article qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Zoning Code.

Public, semi-public or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding **sixty (60) feet**, and churches and temples may be erected to a height not exceeding **seventy-five (75) feet** if the building is set back from each yard line at least **one (1) foot** for each foot of additional building height above the height limit otherwise provided in the district in which the building is located.

Single-family and two-family dwellings may be increased in height by not more than **ten (10) feet** when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than **ten (10) feet**, but they shall not exceed **three (3) stories** in height.

Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio towers or necessary mechanical appurtenances, may be erected to a height in accordance with existing or hereafter adopted ordinances of the City.

Accessory buildings may be built in a required rear yard but such accessory buildings shall not occupy more than **thirty percent (30%)** of the required rear yard and shall not exceed **fourteen (14) feet** in height.

40-14-6 ADDITIONAL REGULATIONS.

(A) **Accessory Buildings.** No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises.

(B) **Open Yards.** Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a side or rear yard, and except for the ordinary projections of sills, belt courses, cornices and ornamental features projecting cannot be closer than **three (3) feet** to the property line.

(C) **Fences.** A ^{Fifty dollars 50⁰⁰} ~~Two, Five Dollar (\$25.00)~~ fee for erection of property line fences is required. The permit will be issued as a building permit, paid at City Hall by the person putting up the fence. If payment is not submitted and the fence is constructed, the City may petition the Circuit Court of Mason County for permission to remove the fence. Fences are permitted on property lines if agreed upon by the property owners. With knowledge that if the property changes ownership that the fence may be required to be removed if contested. Fences otherwise to be constructed **six (6) feet** from property line, **five (5) feet** off alley way. (Ord. No. 11-01; 03-14-11)

(D) **Chimneys and Fire Escapes.** Open or lattice-enclosed fire escapes, fire-proof outside stairways, and balconies opening upon fire towers projecting into a rear yard not more than **five (5) feet**, and the ordinary projections of chimneys and flues into the rear yard shall be permitted.

(E) **Side Yards.** For the purpose of the side yard regulations, a two-family, a group house, or a multiple dwelling shall be considered as one building occupying one lot.

(F) **Height Regulations.** No building exceeding **two and one-half (2.5) stories** or **thirty-five (35) feet**, shall be erected within **seven hundred fifty (750) feet** of any airport, landing field or landing strip.

(G) **Buildings for Storage.** Buildings that are to be used for storage purposes only may exceed the maximum number of stories that are permitted in the district in which they are located, but such buildings shall not exceed the number of feet of building height permitted in such districts.

(H) **Temporary Buildings.** Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but such temporary buildings shall be removed upon completion of the construction work.

(I) **Intensity of Use.** More than one industrial, commercial, multiple dwelling or institutional building may be erected upon a single lot or tract provided they are developed as a unit, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings, nor shall there be any change in the intensity of use regulations.

(J) **Resubdivision.** **Two (2)** or more contiguous nonconforming lots of record may be resubdivided into the same or lesser number of lots provided that none of such lots after such resubdivision will have an area less than that which any of said lots so resubdivided had prior to such resubdivision, and provided that after such resubdivision such lot or lots thereafter shall be conforming lots.

ARTICLE XV - BOARD OF APPEALS

40-15-1 CREATION AND MEMBERSHIP. A Board of Appeals is hereby authorized to be established. The word "Board" when used in this Section shall be construed to mean the Board of Appeals. The said Board shall consist of **seven (7) members** appointed by the Mayor by and with the consent of the City Council. The term shall be **five (5) years**; provided, that the members of the first Board shall serve respectively for the following terms (or until their respective successors are appointed and qualified): **One (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, one (1) for five (5) years, one (1) for six (6) years and one (1) for seven (7) years**, and **five (5) years** each for those following the first appointment. One of the members of said Board shall be designated by the Mayor with the consent of the City Council, as Chairman of said Board, and shall hold his said office as Chairman until his successor is appointed.

40-15-2 MEETINGS. Meetings of the Board of Appeals shall be held at the call of the Chairman, or any **two (2) members**, or at such times as such Board may determine. All hearings conducted by said Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions. Findings of fact shall be included in the minutes of each case of a requested variation, or special permit, and the reasons for granting or denying such application shall be specified. Every rule or regulations, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be filed immediately in the office of the Board and shall be a public record. The Board shall adopt its own rules of procedure not in conflict with this Zoning Code or with the Illinois Statutes in such case made and provided and may select or appoint such officers as it deems necessary.

40-15-3 APPEALS. An appeal may be taken to the Zoning Board by any person, firm or corporation, or by any officer, department Board or Bureau affected by a decision of the Zoning Administrator relative to this Zoning Code. Such appeal shall be taken within such time as shall be prescribed by the Zoning Board by general rule, by filing with the City Clerk a notice of appeal specifying the grounds thereof. The City Clerk shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not

be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the Building Inspector and on due cause shown.

The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonably delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

The Board may reverse or affirm wholly or partly or may modify or amend the order, requirement, decision or determination appealed from to the extent and in the manner that the Board may decide to be fitting and property to the premises.

ARTICLE XVI – OCCUPANCY PERMITS

40-16-1 CERTIFICATE OF OCCUPANCY. Subsequent to the effective date of adopting Ordinance for this Zoning Code no change in the use or occupancy of land, nor any change of use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator. Every certificate of occupancy shall state that the new occupancy complies with all provisions of this Zoning Code. The occupancy certificate required in this Article of the Zoning Code may be issued in addition to or simultaneously with the occupancy permit requirement in **Article I** of the **Property Maintenance Code (Section 29-1-6)**.

40-16-2 ISSUANCE OF CERTIFICATE. No permit for excavation for, or the erection, construction or alteration of any building shall be issued before the application has been made and approved for a certificate of occupancy and compliance, but no occupancy permit shall be issued until the erection, construction or alteration has been completed, inspected and approved by the Zoning Administrator and no building or premises shall be occupied until that certificate and permit is issued.

40-16-3 CONTRACTORS/BUILDERS. It is the duty of all contractors and builders to verify that a building permit has been issued before doing any excavation, erecting, constructing or altering any building, if a permit is required. Any contractor, builder or individual, doing any excavation, erecting, constructing or altering any building without a permit having been issued, if a permit is required, shall be subject to a fine as provided by **Article XVII** of this Zoning Code.

40-16-4 RECORD KEEPING. A record of all certificates of occupancy shall be kept on file in the office of the Zoning Administrator and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or in a building affected by such certificate of occupancy.

40-16-5 NONCONFORMING USES. A certificate of occupancy shall be required for any change in nonconforming uses of land or buildings existing after the passage of the adopting Ordinance for this Zoning Code, or any amendment thereto. Application for such certificate of occupancy for nonconforming uses shall be filed with the Zoning Administrator by the owner or occupant of the land or building occupied by such nonconforming use prior to such change in the nonconforming use. It shall be the duty of the Zoning Administrator to issue a certificate of occupancy for nonconforming uses.

Any nonconforming use for which occupancy permit has not been obtained in conformity with the requirements of this Article shall be presumed to be operating in violation of this Zoning Code and such use shall thereupon be abated.

ARTICLE XVII - ENFORCEMENT

40-17-1 ZONING ADMINISTRATOR. It shall be the duty of the Zoning Administrator to enforce the regulations and standards of this Zoning Code. The Zoning Administrator shall be appointed by the Mayor with the concurrence of the City Council.

40-17-2 APPEALS. Appeal from the decision of the Zoning Administrator may be made to the Zoning Board, as provided by law.

40-17-3 VIOLATION AND PENALTY. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Zoning Code shall, upon conviction, be fined not less than **One Hundred Fifty Dollars (\$150.00)** for a first offense or **Two Hundred Fifty Dollars (\$250.00)** for a second or subsequent offense committed within a **twelve (12) month** period beginning on the date of the first offense, nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each such offense. A separate offense shall be deemed committed on each day a violation occurs or continues.

40-17-4 SEPARABILITY. Should any section, provisions, part or clause of this Zoning Code be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Zoning Code as a whole or any part thereof other than the part so declared to be invalid.

Five **40-17-5 PAYMENT/FEES.** The Zoning Administrator shall be paid **Twenty Dollars (\$25.00)** per building permit application by the City. The applicant or owner shall pay **Twenty-Five Dollars (\$25.00)** upon filing the application for a building permit. The applicant or owner shall pay **One Hundred Seventy-Five Dollars (\$175.00)** upon filing a variation or special use request.

300.00
(Ord. No. 04-14; 09-27-04)

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(C) **Fences.** A ^{Fifty dollars 50⁰⁰} ~~Twenty-Five Dollar (\$25.00)~~ fee for erection of property line fences is required. The permit will be issued as a building permit, paid at City Hall by the person putting up the fence. If payment is not submitted and the fence is constructed, the City may petition the Circuit Court of Mason County for permission to remove the fence. Fences are permitted on property lines if agreed upon by the property owners. With knowledge that if the property changes ownership that the fence may be required to be removed if contested. Fences otherwise to be constructed **six (6) feet** from property line, **five (5) feet** off alley way. **(Ord. No. 11-01; 03-14-11)**

(D) **Chimneys and Fire Escapes.** Open or lattice-enclosed fire escapes, fire-proof outside stairways, and balconies opening upon fire towers projecting into a rear yard not more than **five (5) feet**, and the ordinary projections of chimneys and flues into the rear yard shall be permitted.

(E) **Side Yards.** For the purpose of the side yard regulations, a two-family, a group house, or a multiple dwelling shall be considered as one building occupying one lot.

(F) **Height Regulations.** No building exceeding **two and one-half (2.5) stories** or **thirty-five (35) feet**, shall be erected within **seven hundred fifty (750) feet** of any airport, landing field or landing strip.

(G) **Buildings for Storage.** Buildings that are to be used for storage purposes only may exceed the maximum number of stories that are permitted in the district in which they are located, but such buildings shall not exceed the number of feet of building height permitted in such districts.

(H) **Temporary Buildings.** Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but such temporary buildings shall be removed upon completion of the construction work.

(I) **Intensity of Use.** More than one industrial, commercial, multiple dwelling or institutional building may be erected upon a single lot or tract provided they are developed as a unit, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings, nor shall there be any change in the intensity of use regulations.

(J) **Resubdivision.** **Two (2)** or more contiguous nonconforming lots of record may be resubdivided into the same or lesser number of lots provided that none of such lots after such resubdivision will have an area less than that which any of said lots so resubdivided had prior to such resubdivision, and provided that after such resubdivision such lot or lots thereafter shall be conforming lots.

