

Chapter 405

ZONING REGULATIONS

ARTICLE I

General Provisions

Section 405.010. Authority and Enactment. [Ord. No. 636 Zoning Art. I §101, 2-7-1968]

In pursuance of the authority conferred by Chapter 89, RSMo., as amended, the Board of Aldermen of Mound City, Missouri, does hereby ordain and enact into law the following Articles and Sections.

Section 405.020. Short Title. [Ord. No. 636 Zoning Art. II §201, 2-7-1968]

This Chapter shall be known and may be cited as "The Official Zoning Ordinance of the City of Mound City, Missouri".

Section 405.030. Purpose. [Ord. No. 636 Zoning Art. III §301, 2-7-1968]

The regulations for the zoning districts as herein set forth are made in accordance with a Comprehensive Plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the community. They are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They are made with responsible consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

Section 405.040. Jurisdiction. [Ord. No. 636 Zoning Art. IV §401, 2-7-1968]

The provisions of this Chapter shall apply within the corporate limits of the City of Mound City, Missouri, as now or hereafter fixed, as established on the map entitled "The Official Zoning Map of the City of Mound City, Missouri" as the same may be amended by subsequent annexation. Said map and amendments thereto and all explanatory matter thereof accompanies and is hereby made a part of this Chapter. Said map shall be on file in the office of the County Recorder of Holt County, and a copy thereof shall be furnished to the City Clerk of the City of Mound City, Missouri.

Section 405.050. Interpretation of Regulations. [Ord. No. 636 Zoning Art. IV §402, 2-7-1968]

In interpreting and applying the provisions of this Chapter, they shall be held to be minimum

requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare.

ARTICLE II Definitions

Section 405.060. Interpretation of Terms. [Ord. No. 636 Zoning Art. V §501, 2-7-1968]

For the purpose of interpreting this Chapter certain terms are herein defined. Except as defined herein, all other words used in this Chapter shall have their customary dictionary meanings.

Words used in the present tense include the future tense.

Words used in the singular include the plural, and words used in the plural include the singular.

The word "*shall*" always is mandatory.

The word "*lot*" includes the word "*plot*" or "*parcel*".

The word "*building*" includes the word "*structure*".

The word "*person*" includes "*a firm, association, organization, partnership, trust, company or corporation, as well as an individual*".

The word "*used*" or "*occupied*", as applied to any land or buildings, shall be construed to include the words "*intended, arranged or designed to be used or occupied*".

The word "*map*", "*Zoning Map*", "*Mound City Zoning Map*" or "*Official Zoning Map of Mound City*" shall mean the "Official Zoning Map of the City of Mound City".

Section 405.070. Definitions of Words. [Ord. No. 636 Zoning Art. V §502, 2-7-1968; Ord. No. 861 §§1 — 3, 8-11-1994]

As used in this Chapter, the following terms shall have these prescribed meanings:

ALLEY — Any right-of-way dedicated to vehicular travel, being twenty (20) feet or more but less than fifty (50) feet in width.

APARTMENT — A part of a building consisting of a room or rooms intended, designed or used as a residence by an individual or a single family.

BOARD — Board of Adjustment of the City of Mound City, Missouri.

BOARD OF ALDERMEN — The Board of Aldermen of Mound City, Missouri.

BUILDING — A structure that is completely enclosed by a roof and by solid exterior walls along whose outside faces can be traced an unbroken line for the complete circumference of the structure, which is permanently affixed to a lot or lots, and used or intended for the shelter, support or enclosure of persons, animals or property of any kind. — The connection of two (2) buildings by means of an open porch, breezeway, passageway, carport or other such open structures, with or without a roof, shall not be deemed to make them one (1) building.

BUILDING, ACCESSORY — A subordinate building, the use of which is customarily incidental to that of a principal building on the same lot.

BUILDING, HEIGHT OF — The vertical distance from the established average sidewalk grade, street grade or finished grade at the building line, whichever is the highest, to the highest point of the building.

BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is situated.

BUILDING SETBACK LINE — The line nearest the street and across a lot establishing the minimum open space to be provided between buildings and specified structures and street right-of-way lines.

CELLAR — A portion of a building located partly or wholly underground having one-half (½) or more of its floor-to-ceiling height below the average grade of the adjoining ground.

CITY — The City of Mound City, Missouri.

COMMISSION — The Planning and Zoning Commission of the City of Mound City, Missouri.

CONVENTIONALLY CONSTRUCTED DWELLINGS — A constructed structure with a permanent foundation and/or cellar or basement; the structure is built at the site from disassembled materials by traditional means of construction and in compliance with the City Building Code for a dwelling.

COUNTY — The County of Holt, Missouri.

DWELLING — A building containing one (1) or more dwelling units, but in the case of a building having two (2) or more portions divided by one (1) or more party walls forming a complete separation, each such portion shall be considered to be a separate dwelling.

DWELLING, MULTI-FAMILY — A dwelling used by or designed for three (3) or more dwelling units, each independently containing cooking facilities.

DWELLING, SINGLE-FAMILY — A dwelling having one (1) dwelling unit from ground-to-floor and having independent and outside access.

DWELLING, TWO-FAMILY — A dwelling having two (2) dwelling units.

DWELLING UNIT — A building, or portion thereof, providing complete and permanent living facilities for one (1) family.

FAMILY — One (1) or more persons occupying a premise and living as a single, non-profit housekeeping unit.

FLOOR AREA — Sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings.

FRONTAGE — All the property abutting on one (1) side of a street between two (2) lot lines measured along the right-of-way line.

GARAGE, PRIVATE — A building used only for the housing of private motor vehicles, not used for repair, hire or sale.

GARAGE, PUBLIC — A garage other than a private garage.

GROUP HOME — Any home in which eight (8) or fewer unrelated mentally or physically handicapped persons reside, and may include two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home.

HOME OCCUPATION — Any occupation or profession located in the dwelling unit occupied as a private residence and no person other than members of the family occupying the dwelling unit and no more than one (1) other person that is not a member of the family occupying the dwelling unit shall be employed, engaged, participating or otherwise involved in said home occupation.

JUNK YARD — A lot or part thereof used for the storage, keeping or abandonment of junk, including scrap metal or vehicles or machinery or parts thereof.

LOT — A parcel of land defined by metes and bounds or boundary lines in a recorded deed fronting on a street. In determining lot area on boundary lines, no part thereof within the limits of the street shall be included.

LOT, CORNER — A lot at the junction of and fronting on two (2) or more intersecting streets.

LOT, DEPTH OF — The average horizontal distance between front and rear lot lines.

LOT, INTERIOR — A lot other than a corner lot.

LOT LINES — The lines bounding the lot.

LOT OF RECORD — A lot which is a part of a plot, a map of which has been recorded in the office of the County Recorder of Holt County, Missouri.

LOT, THROUGH — An interior lot having frontage on two (2) parallel or approximately parallel streets.

LOT, WIDTH OF — The horizontal distance between side lot lines measured at the building setback line.

MANUFACTURED DWELLINGS — A transportable structure intended for permanent occupancy, fabricated in a factory in compliance with Federal Manufactured Home Construction and Safety Standards, adopted June 15, 1976, as amended, and carrying the HUD seal of approval or a transportable structure for permanent occupancy fabricated in a factory and not in compliance with Federal Manufactured Home Construction and Safety Standards, adopted June 15, 1976, not carrying the HUD seal of approval, and must comply with minimum tie-down systems published by the Missouri Public Service Commission.

MOBILE HOME — Any vehicle, trailer or unit designed, constructed or used for living or sleeping purposes which is equipped or designed or intended to be equipped with a wheel or wheels or similar devices for the purpose of transporting the unit. Such unit shall be considered a mobile home whether or not the wheels have been removed and whether or not set on jacks, skirting, masonry blocks or other foundation, whether permanent or not, of any type whatsoever. The term shall include:

1. Structures containing parts that may be folded, collapsed or telescoped when being towed and that may be expanded to provide additional cubic capacity; and

2. Structures composed of two (2) or more separately towable or transportable components designed to be jointed into one (1) integral structure capable of being separated again into the component parts for repeated towing or transport. Provisions for mobile home parks are found in Section 405.510 of Article X "Exceptions and Modifications" of this Chapter.

MOBILE HOME PARK — Any place, area or tract of land maintained, offered or used for the parking of two (2) or more mobile homes used or intended to be used for living or sleeping purposes. Provisions for mobile home parks are found in Section 405.510 of Article X "Exceptions and Modifications" of this Chapter.

MODULAR DWELLINGS — A completely assembled and erected building designed and constructed for permanent occupancy, composed of two (2) or more prefabricated modules arranged and united together at the building site into one (1) integral structure, having need of a perimeter formation permanent foundation; characteristic of modular buildings, the roofing and siding are applied to conceal the junction or union of the modules and when completed and ready for occupancy the exterior appearance is such that the building is superficially indistinguishable from a conventionally built building. The building once arranged and joined as one (1) integral structure shall be virtually incapable of being separated again into the component module parts for repeated transport to subsequent locations. The term shall exclude "double-wide mobile homes" and "manufactured homes".

NON-CONFORMING USE — Any building or land lawfully occupied by a use at the time of passage of this Chapter that does not conform with the use regulations of the district within which it is located.

PARKING SPACE — The storage space for one (1) motor vehicle which space is not less than ten (10) feet by twenty (20) feet plus the necessary access space.

STORY — That portion of a building, other than a cellar, included between the structure of the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it.

STREET — A public thoroughfare which affords a principal means of access to abutting property, having a right-of-way of fifty (50) feet or more.

STREET RIGHT-OF-WAY LINE — Lines separating private property from the street or alley existing or dedicated in public ownership.

STRUCTURE — Anything constructed or erected, including a building which has permanent foundations on the ground or anything attached to something having a permanent location on the ground.

USE — Any activity, occupation, business or operation carried on or intended to be carried on in a building or structure or on a tract of land.

YARD — An open space unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

YARD, FRONT — A yard across the full width of the lot extending from the front line of the building to the street frontage.

YARD, REAR — A yard extending across the full width of the lot and measured between the

rear line of the lot and the rear line of the main building.

YARD, SIDE — An open unoccupied space on the same lot with a building between the building and the side line of the lot extending from the front building line to the rear building line or to the rear line of the lot where no rear yard is required.

ARTICLE III Establishment of Districts

Section 405.080. Use Districts. [Ord. No. 636 Zoning Art. VI §601, 2-7-1968; Ord. No. 861 §4, 8-11-1994]

For the purpose of this Chapter, the City of Mound City is hereby divided into six (6) districts designated as follows:

"A-1" Flood Plain District

"A-2" Agricultural District

"R-1" Residential District

"R-2" Residential District

"C-1" Commercial District

"I-1" Industrial District

Section 405.090. District Boundaries. [Ord. No. 636 Zoning Art. VI §602, 2-7-1968]

The boundaries of the districts are hereby established as shown on the map entitled "Official Zoning Map of the City of Mound City, Missouri". Said map and all explanatory matter thereon accompanies and is hereby made a part of this Chapter as is fully written herein.

Section 405.100. Interpretation of District Boundaries. [Ord. No. 636 Zoning Art. VI §603, 2-7-1968]

A. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the centerlines of streets, highways, streams or rivers, street or railroad right-of-way lines or said lines extended, such lines shall be construed to be such boundaries.
2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
3. Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways or railroads or reservoirs, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by use of the scale shown on said Zoning Map.
4. Where a district boundary line divides a lot in single ownership, the district boundary

lines shall be determined by the use of the scale or dimensions shown on the Zoning Map.

5. Where physical or cultural features existing on the ground are in variance with those shown on the Zoning Map or in other circumstances not covered previously in this Section, the Board of Adjustment shall interpret the district boundaries.

ARTICLE IV
District Regulations

Section 405.110. "A-1" Flood Plain District. [Ord. No. 636 Zoning Art. VII §701, 2-7-1968]

- A. *Characteristics.* This district is established to meet the needs of Davis Creek and tributaries to carry abnormal flows of water in time of flood to prevent encroachments into the district which will unduly increase flood heights and damage, and to prevent the loss of life and excessive damage to property in the area of greatest flood hazard, as may exist prior to the construction of adequate flood control measures.
- B. *Special Provisions.* No building permit shall be issued for the construction of any structure or any use or change of use within the district until plans for such construction or use have been submitted to the Commission subject to approval by the City's Engineer. In its review of plans submitted the Commission shall be guided by the following standards, keeping in mind that the purpose of this district is to prevent encroachment into the floodway which will unduly increase flood heights and endanger life and property:
 1. Any uses permitted shall be a type not appreciably damaged by floodwaters.
 2. Any structures permitted shall be designed, constructed and placed so as to offer the minimum obstruction to the flow of water.
 3. Where, in the opinion of the Commission, there is need for topographical data, engineering studies or other information to determine the effects of flooding on a proposed structure or use or the effect of the structure or use on the flow of water, the Commission may require the applicant to submit such information.
 4. The granting of approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind or nature by the City of Mound City or the Commission, or by any officer or employee of either thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.
 5. Upon submission to the Commission of evidence to the effect that adequate area-related flood control measures have been installed, subject to the approval of the City's Engineer, the Commission shall initiate a change of zone petition to bring respective land parcels into conformity with adjacent zone district(s) on the respective sides of the watercourse(s).
- C. *Permitted Uses.* In the "A-1" Flood Plain District, the following restrictions shall prevail prior to the installation of adequate flood prevention measures on an area-related basis:

1. Along floodable portions of Davis Creek, no structural development shall be permitted within one hundred (100) feet of either side of the centerline of said major watercourse, excluding road and railroad bridges and utilities all subject to the approval of the City's Engineer.
2. Along floodable portions of tributaries to Davis Creek as shown on the Zoning Map, as amended, no structural development shall be permitted within fifty (50) feet of either side of the centerline of said minor watercourses, excluding road and railroad bridges and utilities all subject to the approval of the City's Engineer.
3. A non-structural land use allowable in the abutting zone district(s) on the respective side of the watercourse(s) shall be permitted.

Section 405.120. "A-2" Agricultural District. [Ord. No. 636 Zoning Art. VII §702, 2-7-1968]

- A. *Permitted Uses.* In the "A-2" Agricultural District, building structures and land shall be used only for the following purposes:
1. Agricultural uses, farming, livestock raising, and other agricultural activities commonly required for the operation of a farm.
 2. Livestock feedlots and sale barns, kennels and veterinary establishments, but not nearer than one thousand (1,000) feet to any zoned residential district, incorporated area or dwelling other than the dwelling of the lessee or owner of the site.
 3. Single-family dwellings.
 4. Customary incidental home occupations.
 5. Public buildings and publicly owned parks, playgrounds and community centers.
 6. Public works and public utility facilities, such as transformer stations, pumping stations, water towers and telephone exchanges.
 7. Cemeteries and golf courses.
 8. Airports and airplane landing fields.
 9. Accessory buildings, structures or uses subordinate and customarily incident to and located on the same lot with any of the foregoing principal uses.
- B. *Signs.* Sign regulations shall be as set out in Article IX of this Chapter, Sections 405.320 et seq.

Section 405.130. Residential Districts — "R-1" and "R-2". [Ord. No. 636 Zoning Art. VII §703, 2-7-1968; Ord. No. 861 §6(703 — 703.3), 8-11-1994]

- A. *"R-1" Permitted Uses.* Within the "R-1" Residential District, a building or premises shall be used only for the following purposes:
1. Single-family conventionally constructed dwellings and modular dwellings.
 2. Two-family conventionally constructed dwellings and modular dwellings.

3. Multi-family conventionally constructed dwellings and modular dwellings.
4. *Group homes.* No group home shall be located within two thousand five hundred (2,500) feet of another group home. The exterior appearance of the home and property shall be in reasonable conformance with the general neighborhood standards. Group homes shall be eleemosynary or not-for-profit in nature.
5. Boarding and lodging houses not intended as tourist accommodations; provided however, that tourist accommodations commonly known as "bed and breakfast" houses shall be permitted.
6. Public or private parks, playgrounds, community centers, libraries, clubs or lodges, and similar recreational or entertainment facilities operated on a non-commercial or non-profit basis.
7. Hospitals, convalescent or nursing homes, and medical clinics, excluding veterinary hospitals.
8. Churches, Sunday schools and other places of worship.
9. Public and parochial schools.
10. Customary incidental home occupations subject to the following restrictions:
 - a. No alteration of the dwelling or premises shall be made which changes the residential character or appearance of the structure or neighborhood.
 - b. The use shall be conducted entirely within the principal structure and no stock in trade shall be displayed inside or outside or stored outside the structure.
 - c. Signs shall be as regulated in Article IX, Sections 405.320, et seq.
 - d. The use shall not generate traffic in volumes greater than would be normally expected in a residential neighborhood. All parking necessarily generated by the use shall be off the street.
 - e. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced
 - f. No business hours shall be permitted after 8:00 P.M.
 - g. No mechanical equipment shall be used other than that which is ordinarily used for domestic purposes.
 - h. The business or occupation shall have a merchant's license in accordance with the law of Mound City.
11. Customary general agricultural uses, such as greenhouses and truck gardens, which are incidental to the residential use and conducted on a non-commercial basis.
12. Mortuary or funeral homes.
13. Public works and public utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges.

14. Accessory buildings, structures or uses subordinate and customarily incidental to the foregoing principal uses, provided that they are located in the same lot and not less than five (5) feet from any lot line.
- B. *Signs.* Signs shall be as regulated in Article IX, Sections 405.320 et seq.
- C. *"R-2" Permitted Uses.* Within the "R-2" Residential District, a building or premises shall be used only for the following purposes:
1. Any use permitted within the "R-1" Residential District.
 2. Mobile homes as regulated under Section 405.510 of Article X "Exceptions and Modifications" of this Chapter.
 3. Mobile home parks as regulated under Section 405.510 of Article X "Exceptions and Modifications" of this Chapter.
 4. Manufactured dwellings.

Section 405.140. "C-1" Commercial District. [Ord. No. 636 Zoning Art. VII §704, 2-7-1968; Ord. No. 861 §7(704), 8-11-1994]

- A. *Permitted Uses.* In the "C-1" Commercial District, buildings, structures and land shall be used only for the following purposes:
1. Any use permitted within the "R-2" Residential District.
 2. Retail businesses, such as hardware, paint and lumber stores, general merchandise stores, department stores, apparel stores, furniture stores, drug stores, grocery stores, eating and drinking establishments, liquor stores, antique shops, jewelry stores, office supply stores, music shops, sporting goods stores, book, stationery, magazine, candy and tobacco shops and florists, but not excluding similar retail outlets.
 3. Business services, such as banks, credit unions, loan companies and other financial institutions, real estate and insurance agencies, utility offices, newspaper office and professional offices.
 4. Personal services, such as barbershops, beauty salons, photographic studios, laundrettes, tailor, dressmaking, millinery and dry cleaning.
 5. Repair services, such as radio, television and appliance shops, plumbing shops, carpenter shops, upholstery shops and shoe repair shops.
 6. Medical clinics, excluding veterinary hospitals.
 7. Hotels, motels and tourist accommodations.
 8. Eating and drinking establishments.
 9. Theaters.
 10. Billiard and pool halls.
 11. Bakeries and creameries, where the products are sold exclusively at retail on the

premises.

12. Commercial recreation and entertainment, such as drive-in theaters, bowling alleys, dance halls, skating rinks and golf or baseball driving ranges.
13. Automotive sales and services, such as filling or service stations, commercial or repair garages, new and used car dealers and automotive supplies, provided they are completely within an enclosed building or structure.
14. Automobile washing establishments.
15. Farm equipment sales and services, including implement dealers, irrigation equipment and other farm machinery, provided they are completely within an enclosed building or structure.
16. Wholesale trade, warehousing and commercial storage completely within an enclosed building or structure.
17. The open storage, parking or sale of vehicles, machinery and trailers, building materials and supplies and wholesale, warehousing and commercial goods, subject to the regulations outlined in Article X "Exceptions and Modifications".
18. Public and private parking lots.
19. Transportation terminals.
20. Public works and public utility facilities, such as transformer stations, pumping stations, water towers and telephone exchanges.
21. Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard to life or property.

B. *Signs.* Signs shall be as regulated in Article IX, Sections 405.320 et seq.

Section 405.150. "I-1" Industrial District. [Ord. No. 636 Zoning Art. VII §705, 2-7-1968; Ord. No. 861 §8(705), 8-11-1994]

A. *Permitted Uses.* In the "I-1" Industrial District, buildings, structures and land shall be used only for the following purposes:

1. Any use permitted within the "C-1" Commercial District.
2. Building materials manufacturing and sales.
3. Appliance and mechanical instruments manufacturing.
4. Electronic equipment manufacture.
5. Food processing plants.
6. Machine shops and sheet metal shops.
7. Metal processing and fabricating.
8. Furniture and cabinet manufacture.

9. Printing and publishing plants.
 10. Textile manufacture.
 11. Transportation terminals.
 12. Bottling, cold storage, ice or locker plants.
 13. Milling and animal feed preparations.
 14. Fertilizer plants.
 15. Garages for storage, repair and servicing of vehicles and machinery.
 16. Contractor's plants, offices and shops, completely within an enclosed building.
 17. Auction houses.
 18. Utility offices, installations and shops.
 19. Wholesale and warehousing establishments.
 20. Manufacturing, wholesale, warehousing and commercial storage completely within an enclosed building.
 21. Automotive and machinery wrecking, salvage and junk yards and similar types of used material businesses or industries, provided that they are constructed within a structure or on a lot enclosed by a solid fence at least eight (8) feet in height.
- B. *Signs.* Sign regulations shall be as set out in Article IX of this Chapter, Sections 405.320 et seq.

ARTICLE V
Area, Yard and Height Requirements

Section 405.160. Area, Yard and Height Requirements. [Ord. No. 636 Zoning Art. VIII §801, 2-7-1968]

Area, yard and height requirements for the various districts shall be as follows, subject to the regulations as outlined in Article X "Exceptions and Modifications":¹

ARTICLE VI
Application of Regulations

Section 405.170. Use. [Ord. No. 636 Zoning Art. IX §901, 2-7-1968]

No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Chapter, or amendments thereto, for the district in which it is located.

Section 405.180. Height and Density. [Ord. No. 636 Zoning Art. IX §902, 2-7-1968]

1. The Area, Yard and Height Requirements Table is included as an attachment to this chapter.

No building shall hereafter be erected or altered so as to exceed the height limit or to exceed the density regulations of this Chapter for the district in which it is located.

Section 405.190. Lot Size. [Ord. No. 636 Zoning Art. IX §903, 2-7-1968]

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per family or other requirements of this Chapter are not maintained. This prohibition shall not be construed to prevent the condemnation of narrow strips of land for public utilities or street right-of-way purposes.

Section 405.200. Yard Limitations. [Ord. No. 636 Zoning Art. IX §904, 2-7-1968]

No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard or other open space similarly required for another building or structure.

Section 405.210. Principal Building. [Ord. No. 636 Zoning Art. IX §905, 2-7-1968]

Only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot.

Section 405.220. Street Access. [Ord. No. 636 Zoning Art. IX §906, 2-7-1968]

No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street.

ARTICLE VII
Additional Provisions

Section 405.230. Non-Conforming Use. [Ord. No. 636 Zoning Art. X §1001, 2-7-1968]

- A. Section 405.230, Article VII is hereby reconfirmed providing that after August 11, 1994, per Ordinance No. 861 which extensively amends the City's Zoning Code adopted February 11, 1968, land or structures or the uses of land or structures that would be prohibited under the regulations for the district in which they are located shall be considered as non-conforming. It is the intent of this Chapter to permit these non-conforming uses to continue, provided they conform to the provisions of Subsection (B)(1 — 4).
- B. After February 11, 1968, land or structures or the uses of land or structures that would be prohibited under the regulations for the district in which they are located shall be considered as non-conforming. It is the intent of this Chapter to permit these non-conforming uses to continue, provided they conform to the following provisions:
 - 1. No existing structure devoted to a use not permitted by this Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Chapter.
3. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
4. No non-conforming use of a structure, or structure and premises in combination, which has been damaged to the extent of more than sixty percent (60%) of its fair market value immediately prior to damage shall be rebuilt, altered or repaired except in conformity with the district regulations.

Section 405.240. Signs. [Ord. No. 636 Zoning Art. X §1002, 2-7-1968]

Following the adoption of this Chapter, all signs located along the Federal primary and interstate highway systems shall be subject to the provisions of the Federal Development and Beautification Bill (Public Law 89-285) which will become effective in 1970.

Section 405.250. Off-Street Parking Regulations. [Ord. No. 636 Zoning Art. X §1003, 2-7-1968]

Off-street vehicle parking or storage space shall be provided on every lot on which any of the following uses are hereafter established in all districts; provided that no parking space can be reasonably provided on the same lot, such space shall be provided on any lot a substantial portion of which is within three hundred (300) feet of such uses. Each automobile parking space shall be not less than two hundred (200) square feet in area exclusive of adequate access drives and maneuvering space. Such space shall be provided with vehicular access to a street or alley; such use shall be equal in number to at least the minimum requirements for the specific use set forth herein.

Use Classification

Parking Space Requirement

Vehicle sales and repair

One (1) space for each two (2) employees at maximum employment on a single shift, plus two (2) spaces for each three hundred (300) square feet of repair or maintenance space.

Vehicle service stations

Two (2) spaces for each fuel pump, plus three (3) spaces for each grease rack or similar facility.

Bowling alleys

Two (2) spaces for each alley, plus one (1) additional space for each two (2) employees.

Churches	One (1) space for each five (5) seats.
Elementary schools and junior high schools, both public and private	One (1) space for each classroom and administrative office.
Hospitals	One (1) space for each four (4) patient beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.
Mortuary or funeral homes	One (1) space for each four (4) seats in the assembly room or chapel.
Motels, hotels, tourist homes or tourist courts	One (1) space for each accommodation, plus two (2) additional spaces for employees.
Offices--professional, business or public, including banks	One (1) space for each two hundred (200) square feet of gross floor area.
Medical offices and clinics	Four (4) spaces for each doctor practitioner at the clinic, plus one (1) space for each employee.
Places of public assembly, including private clubs and lodges, auditoriums, dance halls, poolrooms, theaters, stadiums, gymnasiums, amusement parks, community centers, and all similar places of public assembly	One (1) space for each four (4) seats provided for patron use, plus one (1) space for each one hundred (100) square feet of floor or ground area used for amusement or assembly, but not containing fixed seats.
Residential dwellings	One (1) space for each dwelling unit.
Retail business	One (1) space for each two hundred (200) square feet of gross floor area.
Sanitariums, rest and convalescent homes, homes for the aged and similar institutions	One (1) space for each six (6) patient beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.
Senior high schools and colleges, both public and private	One (1) space for each five (5) students for which the school was designed, plus one (1) space for each classroom and administrative office.
Mobile home parks	One (1) space for each dwelling unit.
Wholesaling and industrial uses	One (1) space for each two (2) employees at maximum employment on a single shift.

Section 405.260. Off-Street Loading and Unloading Space. [Ord. No. 636 Zoning Art. X §1004, 2-7-1968]

Every building or structure used for business, trade or industry hereafter erected shall provide

space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purpose of this Section, an off-street loading space shall have minimum dimensions of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

Use Classification Loading Space Requirements

Retail business One (1) space for each five thousand (5,000) square feet of floor area.

Wholesale and industry One (1) space for each ten thousand (10,000) square feet of floor space.

**ARTICLE VIII
Wireless Communications Facilities**

Section 405.270. Purposes. [Ord. No. 985 §1(1005), 11-8-2001]

A. The purposes of this Article are to:

1. Provide for the appropriate location and development of wireless communication facilities and systems to serve the citizens and businesses of the City of Mound City.
2. Minimize adverse visual impacts of wireless communication facilities and their support structures through careful design, siting, landscape screening and innovative camouflaging techniques.
3. Maximize the use of existing and new support structures for wireless communication facilities so as to minimize the need to construct new or additional facilities.
4. Maximize and encourage the use of disguised antenna support structures so as to ensure the architectural integrity of designated areas within the City and the scenic quality of protected natural habitats.

Section 405.275. Definitions. [Ord. No. 985 §1(1005), 11-8-2001]

As used in this Article, the following terms shall have the meanings and usages indicated:

CABINET — A structure for the protection and security of communications equipment associated with one (1) or more WCF where direct access to equipment is provided from the exterior and the horizontal dimensions of which do not exceed four (4) feet by six (6) feet.

DISGUISED SUPPORT STRUCTURE — Any freestanding, manmade structure designed for the support of communications antennas or other forms of wireless communication facilities, the presence of which is camouflaged or concealed as an architectural or natural feature. Such structures may include, but are not limited to, clocks, towers, observation towers, pylon signs, water towers, light standards, light poles, flagpoles and artificial trees.

FAA — The Federal Aviation Administration.

FCC — The Federal Communications Commission.

HEIGHT — The vertical distance measured from the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.

NEPA — The National Environmental Policy Act.

SHELTER — A building for protection and security of communications equipment associated with one (1) or more WCFs and where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected WCFs is prohibited.

SUPPORT STRUCTURE — Any freestanding, manmade structure designed for the support of communications antennas or other forms of wireless communication facilities. Said structures shall include, but not be limited to, guyed towers, self-supporting (lattice) towers, monopoles or buildings. The term shall not include any support structure which is:

1. Under seventy (70) feet in height; and
2. Owned and operated by an amateur radio operator or private business band owner licensed by the Federal Communications Commission or by an operator of a citizen band radio ("CB").

WIRELESS COMMUNICATION FACILITY (WCF) — An unstaffed facility for the transmission and/or reception of voice, data or video communications including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of communications usually consisting of an equipment shelter or cabinet and the transmission and reception devices or antenna. The terms shall exclude satellite earth station antennae less than six (6) feet in diameter and any receive only home television antennae.

Section 405.280. General Requirements. [Ord. No. 985 §1(1005), 11-8-2001]

- A. The requirements set forth in this Section shall be applicable to all WCFs and their support structures installed, built or modified after the effective date of this Article (November 8, 2001), and to the full extent permitted by law.
 1. *Administrative and building permits.* An administrative and building permit shall be required.
 2. *Building Code and safety standards.* To ensure the structural integrity of antenna support structures, the owner shall see that it is constructed and maintained in compliance with all standards contained in applicable State and local building codes and the applicable standards published by the Electronics Industries Association, as amended from time to time. In addition to any other approvals required hereunder, no WCF or its support structures shall be erected or installed prior to approval by the Board of Aldermen and the issuance of a building permit.
 3. *Regulatory compliance.* All antennae and support structures shall meet or exceed current standards and regulations of the FAA, FCC and the requirements of the regulations implemented by NEPA affecting wilderness areas, wildlife preserves, endangered species, historical sites, Indian religious sites, flood plains, wetlands, high intensity white lights in residential neighborhoods and radio frequency emissions in excess of FCC guidelines and any other State or Federal agency and legislation with the authority to regulate communications antennae and support structures. Should such standards or regulations be amended, then the owners shall bring such devices

and structures into compliance with the revised standards or regulations within the time period mandated by the controlling agency or legislation.

4. *Security.* All antennae and support structures shall be protected from unauthorized access by appropriate security devices. A description of proposed security measures shall be provided as part of any application to install, build or modify antennae or support structures. Additional measures may be required as condition of the issuance of a building permit or administrative permit as deemed necessary by the Board of Aldermen or by the Board of Adjustment.
5. *Lighting.* Antennae and support structures shall not be lighted unless required by the FAA or other State or Federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build or modify the antennae or support structure.
6. *Advertising.* Unless a disguised antennae support structure is disguised in the form of a lawfully permitted advertising device such as a pylon sign or similar support structure, the placement of advertising on support structures, cabinets or shelters regulated by this Article is prohibited.
7. *Design.*
 - a. Support structures shall maintain a galvanized steel finish or, subject to the requirements of the FAA or any applicable State or Federal agency, be painted a neutral color consistent with the natural or built environment of the site.
 - b. Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site and also shall comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located.
 - c. Support structures shall not exceed two hundred fifty (250) feet in height and shall not exceed the height limitation of any airport overlay zone as may be adopted by the City.
 - d. Antennae attached to a building or disguised support structure shall be a color identical to or closely compatible with the surface to which they are mounted.
 - e. All support structures shall be surrounded by an eight (8) foot security fence with a locking portal to prevent potential climbing hazards. Such security fences shall be surrounded by a landscape strip of not less than ten (10) feet in width within that ten (10) feet there may be planted with materials that will provide a visual barrier to a minimum height of eight (8) feet.
 - e. In lieu of the required eight (8) feet visual barrier, a minimum eight (8) foot-high decorative fence or wall may be approved by the Board of Aldermen or the Board of Zoning and Adjustment in the case of a conditional use permit upon demonstration by the applicant that an equivalent degree of visual screening is achieved.
 - f. The radius of the site of the support structure shall be equal to the height of the

tower with the radius being measured from the outermost part of the base of the support structure so that if the support structure would fall, it would fall totally on site.

- g. Ground anchors of all guyed towers shall be located on the same parcel as the tower and meet the requirements outlined in Subsection (f) above of this Section.
 - h. Vehicle or outdoor storage on any tower site is prohibited.
 - i. On-site parking for periodic maintenance and service shall be provided at all antenna or tower locations.
8. *Shared use.*
- a. Prior to the issuance of any permit to alter or modify any support structure existing on the effective date of this Article (November 8, 2001), the owner shall provide to the City an affidavit agreeing to make said support structure available for use by others subject to reasonable technical limitations and reasonable financial terms. The willful and knowing failure of a support structure owner to agree to share use or to negotiate in good faith with potential users shall be cause for the withholding of future permits to the same owner to install, build or modify antennae or support structures within the City.
 - b. Prior to the issuance of any permit to install, build or modify any support structure, the owner of the support structure shall furnish the Board of Aldermen with an inventory of all that owner's support structure in or within one-half (½) mile of the City limits of the City of Mound City, Missouri. The inventory shall include the support structure's reference name or number, the street location, latitude and longitude, structure type, height, type and mounting height of existing antennas and an assessment of available ground space for the placement of additional equipment shelters.
 - c. Any new support structure approved at a height of one hundred (100) feet AGL or higher shall be designed and constructed to accommodate at least one (1) additional user. The willful and knowing failure of the owner of a support structure built for shared use to negotiate in good faith with potential users shall be cause for withholding of further permits to the same owner to install, build or modify antennae or support structures within the City.
 - d. Any new tower approved shall be designed and constructed to accommodate additional users. The willful and knowing failure of the owner of a support structure built for shared use to negotiate in good faith with potential users shall be cause for withholding of future permits to the same owner to install, build or modify antennae or towers within the City.
 - e. All applicants for new WCFs shall seek first to use unused space on existing support structures, including space on those owners of support structures that are providing similar, competing services. The owner of the existing support structure may on a legitimate and reasonable business basis choose between

multiple requests for shared use on the same tower or structure and may reject any request where legitimate technical obstacles cannot be reasonably overcome such that it would impair existing service, cause the host to go offline for a significant period of time or where the party requesting shared use will not agree to reasonable financial terms. Any party believing that the other party has breached its duty to negotiate in good faith for shared use shall immediately notify the alleged breaching party and the Board of Aldermen in writing. A notice of breach of duty shall explain the precise basis for the claim and shall be accompanied by payment of an administrative review fee of five hundred dollars (\$500.00) to the City to offset the cost of review. After the alleged breaching party's receipt of the notice, that party shall have ten (10) calendar days to provide a written submission to the Board of Aldermen responding to the alleged violation of the shared use requirement. If deemed necessary by the Board of Aldermen, they may engage, at the cost of the party alleging the violation, a neutral, qualified technical consultant to provide an opinion with regard to basis of the breach claim. If the Board of Aldermen receives a notice alleging a violation of the shared use requirement, the time for a decision on an administrative permit is automatically extended for up to sixty (60) days until the Board of Aldermen have determined that the applicant has complied. If the Board of Aldermen find that there has been a breach, then it may impose a fine of five hundred dollars (\$500.00) upon the breaching party. An application for conditional use permit shall not be deemed complete for acceptance until a decision on compliance is reached.

Section 405.285. Permitted Use. [Ord. No. 985 §1(1005), 11-8-2001]

- A. Prior to the issuance of a building permit, an administrative permit approved by the Board of Aldermen shall be obtained. Upon receipt of the appropriate administrative permit and building permit, the following are allowed:
1. The attachment of additional or replacement WCFs or shelters to any existing support structure on the effective date of this Article (November 8, 2001), or subsequently approved in accordance with these regulations, so long as the additional equipment shelters or cabinets are located within the existing support structure compound area and any enlargement of the existing support structure compound area meets all other requirements of this Article and the underlying zoning district.
 2. The mounting of a WCF on an existing building or structure such as water tower, provided that the presence of the WCF is concealed by architectural elements or camouflaged by painting a color identical to the surface to which they are attached.
 3. The mounting of a WCF on or within ten (10) feet above any existing high-voltage electric transmission tower.
 4. The installation of a WCF or the construction of a support structure on buildings or land owned by the City following the approval of a lease agreement by the Board of Aldermen.
 5. The one-time replacement of any support structure existing on the effective date of

this Article (November 8, 2001), or subsequently approved in accordance with these regulations so long as the purpose of the replacement is to accommodate shared use of the site or to eliminate a safety hazard. The new support structure shall be of the same type as the original except that a guyed or self-supporting (lattice) tower may be replaced by a monopoly. If the guyed or lattice tower to be replaced is one hundred eighty (180) feet or less in height, it shall only be replaced with a monopoly. The height of the new tower may exceed that of the original by not more than twenty (20) feet, but under no circumstances shall the height exceed two hundred fifty (250) feet. Subsequent replacements shall require the obtaining of a conditional use permit from the Board of Adjustment.

6. The construction of a disguised support structure provided that all related equipment shall be placed underground or concealed within the structure when the structure is located in any district other than a district authorizing industrial uses. Equipment may be placed in a cabinet if the disguised support structure is incidental to an industrial, commercial, institutional or other non-residential use.
7. The placement of dual polar panel antennas on wooden or steel utility poles not to exceed forty (40) feet in height, provided that all related equipment is contained in a cabinet.

Section 405.290. Application Procedures For Administrative Permits. [Ord. No. 985 §1(1005), 11-8-2001]

- A. Applications for administrative permits shall be made on the appropriate forms to the Board of Aldermen and accompanied by payment of the established fee and:
 1. The appropriate forms shall be accompanied by:
 - a. The established fee;
 - b. A detailed site plan which shall:
 - (1) Be based on a closed boundary survey of the host parcel;
 - (2) Indicate all existing and proposed improvements including, but not limited to, buildings, drives, walkways, parking areas and other structures, public right-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas drawn to scale, hydrologic features and the coordinates and height AGL of the existing or proposed tower.
 - c. A detailed description of the security devices to be installed to protect the antennae and support structure from unauthorized access;
 - d. Documentation establishing the structural integrity of the tower's proposed uses;
 - e. A signed affidavit on whether excess space will be leased;
 - f. Proof of ownership of the proposed site or authorization to utilize it;

- g. Copies of any easements necessary.
2. The Board of Aldermen shall issue a decision on the permit within sixty (60) days of the date of application unless the time period for review and action was extended by the Board of Aldermen for good cause which shall be set forth in a letter to the applicant. The Board of Aldermen may deny the application or approve the application as submitted or with such modifications as are, in their judgment, reasonably necessary to protect the safety or general welfare of the citizens consistent with the purposes of this Article. The Board of Aldermen may consider the factors established herein for granting a conditional use permit as well as any other considerations consistent with this Article. A decision to deny an application shall be made in writing and state the specific reasons for the denial.
3. Appeals from the decision of the Board of Aldermen shall be made in the same manner as provided by Article XII "Board of Adjustment" Section 405.600 of this Chapter for the appeal of administrative decisions unless the application for the administrative permit follows the receipt of a conditional use permit from the Board of Adjustment, in which case the appeal from the decision of the Board of Aldermen shall be made in the same manner as provided by Article XII "Board of Adjustment" Section 405.630 of this Chapter for the appeal of administrative decisions.

Section 405.295. Conditional Use Permit Required. [Ord. No. 985 §1(1005), 11-8-2001]

- A. All proposals to install, build or modify a WCF or its support structure not covered under Sections 405.285 above shall require the approval of a conditional use permit following a duly advertised public hearing by the Board of Adjustment prior to the applicant's obtaining an administrative permit and building permit. Notice of said public hearing shall be given in a newspaper of general circulation in the City of Mound City with the first (1st) notice to be published not less than fifteen (15) days prior to the date established for such public hearing.
 1. *Application.* Application for conditional use permits shall be filed and processed in the manner and time frame as established for administrative permits in Section 405.290 of this Article.
 2. *Time.* The Board of Adjustment shall issue a decision on the conditional use permit within sixty (60) days of the date of application unless the time period for review and action was extended by the Board of Adjustment for good cause which shall be set forth in a letter to the applicant. The Board of Adjustment may deny the application or approve the application as submitted or with such modifications as are, in their judgment, reasonably necessary to protect the safety or general welfare of the citizens consistent with the purposes of this Article. The Board of Adjustment may consider the factors established herein for granting a conditional use permit as well as any other considerations consistent with this Article. A decision to deny an application shall be made in writing and state the specific reasons for the denial.
 3. *Appeals.* Appeals from the decision of the Board of Adjustment shall be made in the same manner as provided by Article XII "Board of Adjustment" Section 405.630 of this Chapter for the appeal of administrative decisions.

4. *Findings required.* In addition to any other determinations specified by 405.295 for the consideration of conditional use permits, the Board of Adjustment shall make findings as to the following based upon evidence submitted with the application or presented during the public hearing by the applicant or others. A decision by the Board of Adjustment to deny an application shall be made in writing and accompanied by substantial evidence that shall be made part of the written record of the meeting at which a final decision on the application is rendered.
 - a. Whether or not the proposed support structure is located on City-owned property.
 - b. Whether or not existing support structures are located within the geographic area necessary to meet the applicant's engineering requirements.
 - c. Whether or not existing support structures or buildings within the applicant's required geographic area are of sufficient height to meet system engineering requirements.
 - d. Whether or not existing support structures have sufficient structural strength to support the applicant's proposed WCF.
 - e. Whether or not the proposed WCF would experience or cause signal interference with the WCF located on existing support structures.
 - f. Whether or not the fees, costs or other contractual terms required by the owner(s) of existing support structure(s) or building(s) within the required geographic area of the applicant are reasonable. Costs exceeding that of a new tower are presumed to be unreasonable.
 - g. Whether or not there are other limiting conditions that render existing support structures or buildings within the applicant's geographic area unsuitable.
 - h. Whether or not the design of the tower or structure, including the antennae, shelter and ground layout, maximally reduces visual degradation and otherwise complies with provisions of this Article.
 - i. Whether or not the proposal minimizes the number and size of towers or structures that will be required in the area.
 - j. Whether or not the applicant has previously failed to take advantage of available shared use opportunities provided by this Article or otherwise.

Section 405.300. Additional Limitations. [Ord. No. 985 §1(1005), 11-8-2001]

- A. WCF and their support structure shall only be permitted on property owned by the City of Mound City.
- B. No support structure shall be approved at a height exceeding two hundred fifty (250) feet AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system or that of a public safety communications system of a governmental entity sharing the support structure. Such showing also must be supported by

the opinion of a telecommunications consultant hired by the City at the expense of the applicant. The opinion of the consultant shall include a statement that no available alternatives exist to exceeding the height limit or the reason such alternative is not viable.

Section 405.305. Obsolete Tower Structures. [Ord. No. 985 §1(1005), 11-8-2001]

Any tower or upper portion of a tower that is not occupied by active antennae for a period of twelve (12) months shall be removed at the owner's expense. Removal of upper portions of a tower manufactured as a single object shall not be required.

Section 405.310. Commercial Operation of Unlawful Support Structure or WCF. [Ord. No. 985 §1(1005), 11-8-2001]

Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect or operate for any private commercial purpose any new WCF or support structure in violation of any provision of this Article, regardless of whether such WCF or support structure is located on land belonging to a governmental entity.

ARTICLE IX
Sign Regulations

Section 405.320. Intent and Purpose.

- A. It is the intent and purpose of these Sign Regulations to qualify, supplement, or define the allowable uses of the several types of signs allowed in the district regulations appearing elsewhere in this Article, and to accomplish the following intent:
1. To encourage the reasonable, orderly and effective display of signs;
 2. To enhance the physical appearance of the City;
 3. To reduce visual clutter;
 4. To prevent blighting influences;
 5. To protect property values;
 6. To provide minimum standards to safeguard life, health and property by regulating and controlling the size, height, design, quality of materials, construction locations, electrification and maintenance of all signs and sign structures; and
 7. To authorize the use of signs which are compatible with their surroundings.

Section 405.330. Use Regulations.

Any sign shall, by definition, be a structure. No land or building or structure shall be used for sign purposes except within the stipulated districts listed in Sign Use Regulations specified herein. All signs legally existing at the time of passage of this Article may remain in use under the conditions of legal non-conformance. Signs in legal non-conformance shall not be enlarged, moved, lighted, or reconstructed; however, the change of the advertising display shall not be

restricted except as previously stated. After the affective date of this regulation, no sign shall be erected, enlarged, constructed, or otherwise installed without first obtaining a sign permit, and a sign permit shall be legally issued only when in compliance with this Sign Regulation. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial. Scale drawings of the sign and manner of supports shall be furnished to the City Clerk in application for a sign permit for all signs.

Section 405.340. Classification of Signs and Definition of Signs.

A. *Functional Types.* (See Illustration 1. in Subsection 405.400(D)(7) of this Title)

BILLBOARD SIGN — A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment, or amusement conducted or produced which is bought or sold, furnished, offered, or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.

BULLETIN BOARD SIGN — A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected within, and announcement of persons, events, or activities occurring at the institution. Such sign may also present a greeting or similar message.

BUSINESS SIGN — A sign which directs attention to a business or profession conducted, or to products, services, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

CONSTRUCTION SIGN — A temporary sign indicating the names of the architects, engineers, landscape architects, contractors, and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.

FLASHING OR MOVING SIGNS — Any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this regulation, any revolving, rotating, moving, animated, signs with moving lights, or signs which create the illusion of movement shall be considered as a flashing sign.

IDENTIFICATION SIGN — A sign giving the name and address of a building, business, development, or establishment. Such signs may be wholly or partially devoted to a readily recognized symbol.

LOGO SIGN — A distinctive company signature, trademark, or service mark as used by a manufacturer, dealer or supplier of services to distinguish a product or service from those competitors, and usually registered and protected by law. The logo sign shall not exceed twelve (12) square feet. A permit shall be required for each logo sign as defined, and a permit fee and annual permit fee shall be required.

NAME PLATE SIGN — A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located and, where applicable, a professional status.

REAL ESTATE SIGN — A sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one (1) or more structures or a portion thereof on which the sign is located.

B. *Structural Types.*

AWNING, CANOPY OR MARQUEE SIGN — A sign that is mounted or painted on or attached to an awning, canopy, or marquee. No such signs shall project above, below, or beyond the awning, canopy, or marquee.

BANNER SIGN — Any sign of lightweight fabric or similar material that is mounted to a pole or a building at one (1) or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

GROUND SIGN — Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property, where the bottom edge of the sign is no greater than six (6) feet above the elevation of ground. The support structure for the sign shall be no less than one-half (½) the width of the display surface area, and shall be decorative stone. Other materials proposed for use in construction of support structure must be approved by action of the Planning and Zoning Commission at a regularly scheduled meeting.

POLE SIGN — Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property where the bottom of the sign is six (6) feet or more above the ground level.

PORTABLE SIGN — Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to "A"- or "T"-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

PORTABLE SWINGER SIGN AND "A"-FRAME OR SANDWICH SIGN — An advertising device which is ordinarily in the shape of an "A" or some variation thereof, located on the ground, easily movable, not permanently attached thereof, and which is usually two-sided.

PORTABLE TEMPORARY ATTRACTION SIGN BOARD — A single or double surface painted or poster panel type sign or some variation thereof, which is temporary in nature, usually mounted on wheels, easily movable, not permanently attached thereto.

PROJECTING SIGN — A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

READER BOARD SIGN — A portion of a ground sign designed to give information relative to the business where it is located, which information may change frequently; and a free-standing informational sign not exceeding fifty (50) feet, in conjunction with drive-in services designed to display information that may change frequently.

ROOF SIGN — A sign totally supported on the roof of a structure. Roof signs shall not project more than twelve (12) inches beyond the face of the building.

ROOF SIGN, INTEGRAL — Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof, and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

WALL SIGN — A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve (12) inches from such building, nor above the roof of the building.

WINDOW SIGN — Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window.

C. *Definitions Of Sign-Related Terms, Phrases And Words.* As used in this Article, the following terms shall have these prescribed meanings:

COMMERCIAL MESSAGE — Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, sale or sales event or other commercial activity.

DISPLAY SURFACE AREA — The net geometric area enclosed by the display surface of the sign, including the outer extremities of all letters, characters and delineations; provided however, "display surface area" shall not include the structural supports for free-standing signs.

ILLUMINATED, DIRECT — Illumination which is so arranged that the light is directed into the eyes of the viewer from the light source.

ILLUMINATED, INDIRECT — Illumination so arranged that the light is reflected from the sign to the eyes of the viewer.

NON-CONFORMING SIGN — A sign existing at the effective date of the adoption of this regulation which could not be built under the terms of this regulation.

OFF-SITE SIGN — A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than upon the same lot where such sign is displayed. The term off-site sign shall include an outdoor billboard sign on which space is leased or rented by the owner thereof to others for the purposes of conveying a commercial or non-commercial message.

ON-SITE SIGN — A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing on the same lot where such sign is displayed; provided, an on-site sign may also display a non-commercial message.

SHOPPING CENTER — Two (2) or more retail stores and/or service establishments, or one (1) retail store and one (1) service establishment, sharing customer parking areas, regardless of whether said stores and/or establishments occupy separate structures or are under separate ownerships.

STREET FRONTAGE — The distance for which a lot line of a zone lot adjoins a public street, from one (1) lot line intersecting said street to the furthest distance lot line intersecting the same street.

Section 405.350. Prohibited Signs.

A. Prohibited signs are as follows:

1. *Portable temporary attraction signs on wheels.* Under no circumstances will portable temporary attraction signs be allowed, whether mounted on vehicles, wheels, platforms, or freestanding.
2. *Signs on public property.* Any sign installed or placed on public property, except in conformance with these requirements, shall be forfeited to the public and subject to confiscation, except that logo signs on public athletic fields shall be allowed. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
3. *Obscene or indecent advertisement.* No person shall display upon any sign or other advertising structure any obscene, indecent or immoral matter.
4. *Flashing signs.* Flashing signs shall not be permitted. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed as a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature and are not more frequent than every fifteen (15) seconds.
5. *Off-site signs.* (Billboard signs). Off-site signs are prohibited. Except signs promoting civic, philanthropic or community betterment are allowed with a special use permit and must comply with all other requirements of this Article.

Section 405.360. Exemptions.

- A. The following signs shall be exempt from the requirements of this Article:
 1. Flags or emblems of a governmental or of a political, civic, philanthropic, educational, or religious organization displayed on private property.
 2. Signs of a duly constituted Governmental Body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.
 3. Memorial signs and tablets displayed on private property.
 4. Small signs, not exceeding six (6) square feet in area, nor four (4) feet in height, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances, and other similar signs.
 5. Score boards in athletic stadiums.
- B. The following signs are exempt from the sign permit Section 405.370 of this Article, but shall comply with all of the other regulations imposed by this Article.
 1. Name plate signs not exceeding two (2) square feet in gross area accessory to a single-family or two-family dwelling.
 2. Bulletin board signs not exceeding fifteen (15) square feet in gross area accessory to a church, school, or public or non-profit institution.

3. Temporary signs for the sale of household goods at a residence (garage sale) for a period not to exceed three (3) days.
4. Real estate signs not exceeding six (6) square feet in area for the sale of the property on which it is located.
5. Construction signs not exceeding sixteen (16) square feet in area only during the period of construction.
6. Political campaign signs not exceeding four (4) square feet in area, displayed during no more than an eight (8) week period preceding and a one (1) week period following an election, except that a successful candidate in a primary election may leave political signs in place until one (1) week following the next general election.

Section 405.370. Permits.

- A. *Requirement.* No person shall erect, repair, structurally alter, relocate or maintain within the City any sign or other advertising structure as defined in this regulation without first obtaining a permit from the enforcement agency and making payment of the fee as set forth herein, with the exception that repairs and changes in the painted or printed copy are permitted on conforming and non-conforming signs, as long as such repairs and changes do not alter the structure, and with the exception that structural alterations involving minor extensions shall require a permit based on the square footage of the extension. All such repairs and changes shall be done under the supervision of the enforcement agency.
- B. *Application For Permanent Sign.* Application for permits shall be made on forms provided by the enforcement agency, and shall contain or have attached thereto the following information:
 1. Name, address and telephone number of the applicant.
 2. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.
 3. Position of the sign or other advertising structure in relation to nearby buildings or structures.
 4. Two (2) blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
 5. Copy of the stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws of the City.
 6. Name of person erecting structure.
 7. Written consent of the owner of the building, structure or land to which or on which the structure is to be erected.
 8. Any electrical permit required and issued for the sign.
 9. Insurance policy or bond as required.

10. Such other information as the enforcement agency shall require to show full compliance with this and all other laws of the City.

C. *Application For Temporary Sign.*

1. Permits for temporary signs erected for sales or special occasions or purposes shall be authorized for a period not to exceed ten (10) consecutive days, with further restrictions of three (3) temporary permits issued per calendar year. One (1) temporary sign per business site shall be allowed at any one (1) time.
2. Permits for temporary signs erected to provide identification of construction projects or new building may be authorized for a six (6) month period and, upon application to the enforcement agency, may be renewed for successive six (6) month periods; provided, that no additional fee shall be required for renewal of such permits.

D. *Term Of Permit.* The enforcement agency shall, upon filing of an application for a permit, examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure is in compliance with all of the requirements of this regulation and all other laws of the City, the enforcement agency shall issue the permit. The applicant must commence work authorized under an erection permit within sixty (60) days of the date of issuance or the permit shall become null and void. Work authorized under the permit shall proceed in a diligent and workmanlike manner until work authorized under the permit is completed.

E. *Revocation.*

1. All rights and privileges acquired under the provisions of this regulation or any amendment thereto are mere licenses revocable for cause at any time by the Board of Aldermen, and all such permits shall contain this provision.
2. The enforcement agency is hereby authorized to recommend the revocation of any permit upon failure of the holder thereof to comply with any provision of this regulation.

F. *Fee Schedule.* Each application for a sign permit or for approval of a Master Signage Plan shall be accompanied by the applicable fees, which shall be established by the Board of Aldermen from time to time by resolution.

Fee Schedule

The fees for sign permits and plans for the period beginning with this regulation shall be as follows:

Master Signage Plan, Application Fee	\$50.00
Sign Permit, Initial, including inspection, per zone lot	\$25.00 plus \$ 0.25 per sq. ft.
Additional Fee (Initial and Continuing) for signs extending over public right-of-way, per sign	\$50.00 annually and a \$10,000.00 liability policy

Non-conforming sign repair

None

- G. *Penalties.* Any person erecting, constructing or altering any sign structure without obtaining a permit or paying the permit fee as required in this regulation shall, in addition to the payment of such permit fee, pay an additional penalty fee of fifty dollars (\$50.00).

Section 405.380. Maintenance.

- A. *Existing Sign Maintenance.* All signs shall be designed, constructed, and maintained in compliance with applicable provisions of the Building Code and the Electrical Code of the City. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this regulation, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- B. *Removal Of Unsafe Or Illegal Signs.* If the enforcement agency shall find that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or has been constructed or erected, or is being maintained in violation of the provisions of this regulation, it shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within ten (10) days after such notice, such sign or other advertising structure may be removed or altered to comply by the enforcement agency at the expense of the permittee or owner of the property upon which it is located. The enforcement agency shall refuse to approve a permit to any permittee or owner who refuses to pay costs so assessed. The enforcement agency may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.
- C. *Sign Maintenance Enforcement.*
1. All signs within the City shall be maintained in a safe condition and in such a manner that they shall not become a visual detriment to the community at large. The designated official shall be charged with the responsibility and authority to inspect all signs within the City and direct the maintenance of said signs. Maintenance of signs is defined as keeping sign structures in a safe condition, free of rust, with broken glass or plastic replaced, electrical lights and other electrical operations in operable condition, letters and other sign components in the equivalent condition as on the sign permit or as approved.
 2. Should the enforcement agency find a non-maintained sign as defined above, it shall cause the owner of said sign to be notified as to the deficiency and the corrective action that needs to be taken.
 3. Should the owner fail to exhibit evidence of compliance within thirty (30) days after the mailing of the letter of notification, the enforcement agency shall cause the owner to be cited for violation of this regulation.
- D. *Painted Sign Maintenance.* The owner of any sign as defined and regulated by this regulation shall be required to have properly painted at least once every two (2) years all

parts and supports of the sign, unless the same are galvanized or otherwise treated to prevent rust.

Section 405.390. Non-Conforming Signs.

- A. For the purpose of this Section, a *"non-conforming sign"* shall be defined as a sign existing at the effective date of this regulation which could not be built under the terms of this regulation or under the terms of other City regulations.
- B. *On-Site Non-Conforming Signs.* All on-site non-conforming signs not otherwise prohibited by the provisions of this regulation shall be removed or shall be altered to conform to the provisions of this regulation:
 - 1. When the nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend, or
 - 2. When the name of the business changes and the sign is changed or modified either in shape, size, or legend, or
 - 3. On or before January 1, 2017, whichever occurs sooner.
- C. *Off-Site Non-Conforming Signs.* Off-site non-conforming signs not otherwise prohibited by the provisions of this regulation shall be removed or shall be altered so as to conform with the provisions of this regulation on or before January 1, 2017.
- D. Signs which are non-conforming, as provided in this regulation, shall not be repaired, altered or moved unless it be made to comply with the provisions of this regulation. No alteration of non-conforming signs shall be undertaken without the issuance of a permit. No fee will be charged for the permit, provided the alterations do not substantially alter the basic design or concept of the sign.
- E. Should any non-conforming sign be damaged by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of damage, it shall not be reconstructed except in conformity with the provisions of this regulation.

Section 405.400. District Regulations.

- A. *"A-1" Flood Plain Districts And "A-2" Agricultural Districts.*
 - 1. *Functional types permitted.*
 - a. Bulletin board signs.
 - b. Business signs pertaining only to the sale of agricultural products produced on the premises and home occupations.
 - c. Construction signs.
 - d. Identification signs.
 - e. Name plate signs.
 - f. Real estate signs.

2. *Structural types permitted.*
 - a. Ground signs.
 - b. Wall signs.
3. *Number of signs permitted.* One (1) sign per zoning lot.
4. *Maximum gross area.*
 - a. *Bulletin board and identification signs.* Sixteen (16) square feet.
 - b. *Business signs.*
 - (1) *Home occupations.* Two (2) square feet.
 - (2) *Agricultural.* Twenty (20) square feet.
 - c. *Construction signs.* Sixteen (16) square feet.
 - d. *Name plate signs.* Two (2) square feet.
 - e. *Real estate signs.* Six (6) square feet.
 - f. *Identification signs for churches, hospitals, police stations, fire stations and other similar public facilities.* Sixty-five (65) square feet.
5. *Maximum height.* Ten (10) feet.
6. *Required setbacks.* None.
7. *Illumination.* Bulletin board and identification signs that do not exceed twelve (12) square feet on one (1) face for churches, hospitals, police stations, fire stations, and other similar public facilities may be indirectly illuminated.

B. *"R-1" Residential Districts And "R-2" Residential Districts.*

1. *Functional types permitted.*
 - a. Business signs pertaining to a home occupation and subject to the sign requirements of the home occupation section of this regulation.
 - b. Bulletin board signs.
 - c. Construction signs.
 - d. Identification signs.
 - e. Name plate signs.
 - f. Real estate signs.
 - g. Business signs.
2. *Structural types permitted.*
 - a. Ground signs.

- b. Wall signs.
- 3. *Number of signs permitted.* One (1) sign per zoning lot.
- 4. *Maximum gross area.*
 - a. *Business signs.* Fifty (50) square feet.
 - b. *Home occupations.* Two (2) square feet.
 - c. *Bulletin board and identification signs.* Six (6) square feet.
 - d. *Construction signs.* Twenty (20) square feet.
 - e. *Name plate signs.* Two (2) square feet.
 - f. *Real estate signs.* Six (6) square feet, provided that one (1) sign not more than one hundred (100) square feet in area announcing the sale of lots and/or houses in a subdivision may be located on said development. Said sign shall be removed at the end of three (3) years or when seventy-five percent (75%) of the lots have been sold, whichever occurs sooner.
 - g. *Identification signs for churches, hospitals, police stations, fire stations, apartment buildings and other similar public facilities.* Sixty-five (65) square feet.
- 5. *Maximum height.* Ten (10) feet.
- 6. *Required setback.* No sign shall be placed closer to the front property line than one-half (½) the distance of the front yard.
- 7. *Illumination.* Bulletin boards and identification signs may be indirectly illuminated with incandescent or fluorescent lighting.

C. *"C-1" Commercial District.*

- 1. *Functional types permitted.*
 - a. Bulletin board signs.
 - b. Business signs.
 - c. Construction signs.
 - d. Identification signs.
 - e. Name plate signs.
 - f. Real estate signs.
- 2. *Structural types permitted.*
 - a. Awning, banners, canopy, or marquee signs.
 - b. Projecting signs.
 - c. Wall signs.

3. *Number of signs permitted.*
 - a. *Awning, canopy, marquee or wall signs.* No limitation.
 - b. *Projecting signs.* One (1) per zoning lot.
4. *Maximum gross surface area.* Signs shall not exceed a gross surface of two hundred (200) square feet; except projecting signs shall not exceed twelve (12) square feet.
5. *Maximum height.* Not applicable.
6. *Required setback.* None.
7. *Illumination.* Illuminated signs shall be permitted.

D. *"I-1" Industrial.*

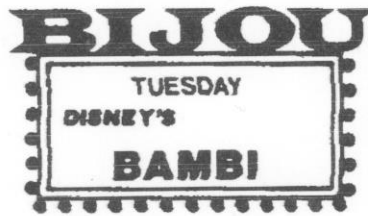
1. *Functional types permitted.*
 - a. Bulletin board signs.
 - b. Business signs.
 - c. Construction signs.
 - d. Identification signs.
 - e. Name plate signs.
 - f. Real estate signs.
2. *Structural types permitted.*
 - a. Awning, canopy, or marquee signs.
 - b. Ground signs.
 - c. Projecting signs.
 - d. Wall signs.
3. *Number of signs permitted.*
 - a. *Ground signs.* One (1) per zoning lot.
 - b. *Others.* Two (2) per zoning lot.
4. *Maximum gross surface area.* Signs shall not exceed a gross surface area of three hundred (300) square feet; projecting signs shall not exceed twelve (12) square feet; ground signs shall not exceed one hundred (100) square feet and twenty (20) feet in height.
5. *Maximum height.*
 - a. *Wall signs.* Not above the highest point of the structure on which the sign is located.

- b. *All other signs.* Ten (10) feet.
- 6. *Required setbacks.* None, except that advertising signs shall maintain the same setback that is required for principal structures and shall be no farther from a dedicated State highway right-ofway than one hundred (100) feet, and shall be no closer than five hundred (500) feet to another advertising sign.
- 7. *Illumination.* Illuminated signs shall be permitted.

ILLUSTRATION 1. FUNCTIONAL SIGN TYPES



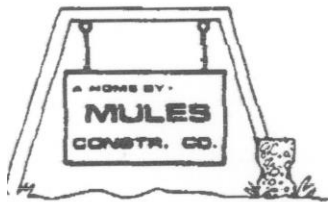
ADVERTISING SIGN



BULLETIN BOARD SIGN



BUSINESS SIGN



CONSTRUCTION SIGN



IDENTIFICATION SIGN



NAME PLATE SIGN



REAL ESTATE SIGN

**ARTICLE X
Exceptions and Modifications**

Section 405.410. Special Exception Regulations. [Ord. No. 636 Zoning Art. XI §1101, 2-7-1968; Ord. No. 861 §10, 8-11-1994; Ord. No. 866 §1, 9-8-1994]

- A. Upon application, pursuant to the provisions of this Article and the rules and procedure of the Board of Adjustment, said Board shall grant or refuse special exceptions in accordance with the standards of this Article and the intent of this Article. In granting any special exception, the Board shall authorize the issuance of a building permit and may prescribe and impose appropriate conditions and safeguards, including a specified time limit for the building permit.
 - 1. *Standards.* Special exceptions shall be authorized only if they meet the following standards:

- a. *Fire hazard.* The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate fire-fighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.
 - b. *Noise.* The use shall not include noise which is objectionable due to volume, frequency or beat unless muffled or otherwise controlled.
 - c. *Vibration.* The use shall not include vibration which is discernible without instruments on any adjoining lot or property.
 - d. *Air pollution.* The use shall not involve any pollution of air by fly ash, dust, vapors or other substances which are harmful to health, animals, vegetation or other property or which can cause soiling, discomfort or irritation.
 - e. *Odors.* The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.
 - f. *Glare.* The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road or highway.
 - g. *Traffic hazard.* The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
 - h. *Overtaxing of public utilities and facilities.* The use shall not involve any activity substantially increasing the burden on any public utilities or facilities, unless provision is made for any necessary adjustments.
 - i. *Character of neighborhood.* The use shall not involve any activity not in character with the majority of the uses in the neighborhood unless, by design, setback, nature of operation and other devices, the character of the neighborhood will be maintained.
 - j. *General welfare of the community.* The use shall not involve any activity which adversely affects the general welfare of the community.
2. *Mobile homes.* If the Board of Adjustment, pursuant to the standards, rules and procedures under Article XII "Board of Adjustment" of this Chapter, grants a variance for a mobile home or mobile home park to be located in an "R-1" Residential District, then the minimum standards for such placement shall meet all of the applicable following criteria:
- a. All mobile home parks shall include lots for at least two (2) mobile homes and in no case shall the density exceed eleven (11) mobile home sites per acre.
 - b. Mobile home spaces within a mobile home park shall abut upon a driveway or accessway of not less than twenty (20) feet in width. The area occupied by the road shall not fulfill part of the area requirements for any lot.
 - c. In a mobile home park no mobile home shall be located closer than fifteen (15) feet to another mobile home.

- d. A mobile home park shall abut a street of the City of Mound City, Missouri, for at least sixty (60) feet.
 - e. Any mobile home whether in a mobile home park or located on a lot or tract shall have a lot of at least three thousand (3,000) square feet if connected to a public sewer or nine thousand (9,000) square feet if not connected to a public sewer.
 - f. No mobile home whether in a mobile home park or located on a lot or tract shall be parked closer to the street than the required front yard setback or closer than eight (8) feet to any property line.
 - g. In a mobile home park no less than one (1) automobile parking space shall be provided on every mobile home lot.
 - h. All applicable State, County and City sanitation, health and safety regulations and codes shall be strictly observed.
3. *Special uses.* The Board of Adjustment, subject to conditions and protective restrictions as set forth in Section 405.410(1), authorize the following special uses in any zoning district.
- a. Radio, TV and telephone transmission towers.
 - b. Expansion of railroads and appurtenances.
 - c. Removal of gravel, topsoil or similar natural material, with safeguards for the protection of adjoining property and the community as a whole.
 - d. Roadside stands, commercial amusements or recreational developments for temporary or seasonal periods.

Section 405.420. Lot of Record. [Ord. No. 636 Zoning Art. XI §1102, 2-7-1968]

Where the owner of a lot of official record in any district at the time of the adoption of this Chapter or his/her successor in title thereto does not own sufficient contiguous land to enable him/her to conform to the minimum lot size requirements of this Chapter, such lot may be used as a building site provided that said lot requirements are not reduced below the minimums specified in this Chapter by more than twenty percent (20%). If, however, the owner of two (2) or more adjoining lots with insufficient land dimensions decides to build on or sell said lots, he/she must first combine said lots to comply with the dimensional requirements of the Chapter. Any lot requiring dimensional variances below the twenty percent (20%) minimum set forth in this Section shall be approved by the Board, provided that further decreased dimensional requirements shall conform as closely as possible to the required dimensions.

Section 405.430. Front Yard Depths. [Ord. No. 636 Zoning Art. XI §1103, 2-7-1968]

The front yard depth requirements of this Chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the same block and use districts and fronting on the same street as such lot, is less than the minimum required front yard

depth. In such case the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots or a distance of ten (10) feet from the street right-of-way line, whichever is greater.

Section 405.440. Side Yard Widths. [Ord. No. 636 Zoning Art. XI §1104, 2-7-1968]

The required side yard shall be maintained on each side of a dwelling but such side yard may be reduced to ten percent (10%) of the lot width on lots of less than sixty (60) feet in width, provided however, that no side yard shall be less than five (5) feet. For the purpose of side yard regulations, a two-family or multiple-family dwelling shall be considered as one (1) building occupying one (1) lot.

Section 405.450. Rear Yard Depths. [Ord. No. 636 Zoning Art. XI §1105, 2-7-1968]

The required rear yard may be reduced to twenty percent (20%) of the depth of the lot on any lot not exceeding one hundred (100) feet in depth. An accessory building may be built within a required rear yard when located at least five (5) feet from the rear lot line and when occupying not more than thirty percent (30%) of the area of such required rear yard.

Section 405.460. Projections Into Required Open Space. [Ord. No. 636 Zoning Art. XI §1106, 2-7-1968]

- A. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for:
1. The ordinary projection of sills, belt courses, cornices and ornamental features may be permitted but not to exceed more than twenty-four (24) inches in any required yard.
 2. An open, uncovered porch or paved terrace may extend not more than ten (10) feet into any required yard and not closer than five (5) feet to any lot line.
 3. Open or enclosed fire escapes, fireproof outside stairways and balconies may be permitted but may not project into a yard or court for more than fifty percent (50%) of the required yard.

Section 405.470. Corner Lots. [Ord. No. 636 Zoning Art. XI §1107, 2-7-1968]

On corner lots, the side yard on that side of the lot abutting the side street shall not be less than fifteen (15) feet. Accessory buildings on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance specified for front yards of lots fronting on such side street.

Section 405.480. Corner Visibility. [Ord. No. 636 Zoning Art. XI §1108, 2-7-1968]

On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision between the range of three (3) feet and eight (8) feet in height measured from the centerline of the street shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street right-of-way line each of which is thirty-five (35) feet distance from the point of intersection.

Section 405.490. Height Limitations. [Ord. No. 636 Zoning Art. XI §1109, 2-7-1968]

- A. The height limitations of this Chapter shall not apply to chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers, tanks, spires, church steeples, radio towers or necessary mechanical apparatus, except as otherwise provided in the vicinity of airports.
- B. Public, semi-public or public-service buildings, hospitals, institutions, churches and schools, when permitted in a district, may be erected to a height not exceeding seventy (70) feet provided that all required yards are increased by one (1) foot for each foot of building height above the height limit otherwise provided.

Section 405.500. Group Projects. [Ord. No. 636 Zoning Art. XI §1110, 2-7-1968]

- A. In the case of one (1) or more buildings to be constructed on a plot of ground of at least one (1) acre not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this Chapter may be varied by the Board in a manner that will be in harmony with the character of the neighborhood, provided:
 - 1. Such uses are limited to those permitted within the zoning district in which the project is located;
 - 2. The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located;
 - 3. The distance of every building from the nearest property line shall meet the front, side and rear yard requirements of the district in which the project is located;
 - 4. If the property lies within or abuts upon a residential district and is to be used for a non-residential purpose, there shall be a densely planted buffer strip at least ten (10) feet in height along the rear and/or side lot lines abutting the residential properties. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lot.

Section 405.510. Mobile Homes and Mobile Home Parks. [Ord. No. 861 §11, 8-11-1994; Ord. No. 866 §2, 9-8-1994]

- A. Mobile homes or mobile home parks may be located in an "R-2" Residential District, "C-1" Commercial District or an "I-1" Industrial District provided that the proposed use meets all of the following criteria:
 - 1. All mobile home parks shall include lots for at least two (2) mobile homes and in no case shall the density exceed eleven (11) mobile home sites per acre.
 - 2. Mobile home spaces within a mobile home park shall abut upon a driveway or accessway of not less than twenty (20) feet in width. The area occupied by the road shall not fulfill part of the area requirements for any lot.
 - 3. A mobile home park shall abut a street of the City of Mound City, Missouri, for at least sixty (60) feet.
 - 4. In a mobile home park no mobile home shall be located closer than fifteen (15) feet to

another mobile home.

5. Any mobile home whether located in a mobile home park or on a lot or tract shall have a lot of at least three thousand (3,000) square feet if connected to a public sewer or nine thousand (9,000) square feet if not connected to a public sewer.
6. No mobile home whether located in a mobile home park or on a lot or tract shall be parked closer to the street than the required front yard setback or closer than eight (8) feet to any property line.
7. In a mobile home park no less than one (1) automobile parking space shall be provided on every mobile home lot.
8. All applicable State, County and City sanitation, health and safety regulations and codes shall be strictly observed.

ARTICLE XI Enforcement

Section 405.520. Building Inspector. [Ord. No. 636 Zoning Art. XII §1201, 2-7-1968]

The office of Building Inspector is hereby authorized. For the purpose of this Article, the City Clerk is hereby designated as such Building Inspector or the Board of Aldermen may, at their discretion, designate an inspector other than the City Clerk.

Section 405.530. Enforcement Responsibility. [Ord. No. 636 Zoning Art. XII §1202, 2-7-1968]

The provisions of this Chapter shall be enforced by the Building Inspector. Appeal from the decision of the Building Inspector may be made to the Board of Adjustment as provided herein.

Section 405.540. Building Permit Required. [Ord. No. 636 Zoning Art. XII §1203, 2-7-1968; Ord. No. 944 §1(1203), 6-8-1998]

A building permit shall be required to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land as herein specified.

Section 405.550. Application For Building Permit. [Ord. No. 636 Zoning Art. XII §1204, 2-7-1968]

- A. To obtain a building permit, the applicant shall submit the required documents established herein.
 1. An application on form prescribed by the Building Inspector containing information sufficient to show compliance with the requirements of this Chapter.
 2. A plat drawn to scale showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of existing buildings and structures, the lines within which the proposed building or structure and driveways shall be located or altered, the existing and intended use of each building or part of a building, the existing and intended use of the property and such other information with regard to the lot and neighboring lots and their use as may be necessary to determine compliance and provide for the enforcement of this Chapter.

3. In areas which are not served with public water or sewer, a certified statement that the proposed water and sewer facilities will be installed to conform to the minimum requirements of the State Department of Health.
4. Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one (1) year. A record of building permits shall be kept on file in the office of the Building Inspector.

Section 405.560. Remedies. [Ord. No. 636 Zoning Art. XII §1206, 2-7-1968]

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Chapter, the proper authorities of the City of Mound City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE XII
Board of Adjustment

Section 405.570. Creation and Appointment. [Ord. No. 636 Zoning Art. XIII §1301, 2-7-1968]

In compliance with provisions of Chapter 89, RSMo., as amended, the Board of Adjustment is hereby created. The Board shall consist of five (5) members selected by the Mayor and approved by the Board of Aldermen for terms of five (5) years each, except that the first (1st) Board shall consist of one (1) member for one (1) year; one (1) member for two (2) years; one (1) member for three (3) years; one (1) member for four (4) years; and one (1) member for five (5) years; provided further, that one (1) member only also shall be a member of the Commission and shall relinquish his/her ex officio membership on the Board at such time that he/she ceases to be a member of the Commission. All members shall be removable for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

Section 405.580. Jurisdiction and Decisions. [Ord. No. 636 Zoning Art. XIII §1302, 2-7-1968]

- A. The five (5) members appointed to the Board by the Board of Aldermen shall be residents of the City of Mound City, Missouri.
- B. The Concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirements, decision or determination of the Building Inspection; or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter; or to effect any variation of this Chapter.
- C. On all appeals, applications and other matters brought before the Board, said Board shall inform, in writing, all the parties involved of its decisions and the reasons therefore.

Section 405.590. Proceedings. [Ord. No. 636 Zoning Art. XIII §1303, 2-7-1968]

The Board of Adjustment shall elect a Chairman from its members who shall serve for one (1)

year or until re-elected or until their successors are elected. The Board shall adopt rules in accordance with the provisions of this Article and of Chapter 89, RSMo., 1963, as amended. Meeting of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, show the vote of each member upon each question and keep records of its examinations and other official actions, all of which shall be filed in the office of the Board and shall be a public record. All meetings of the Board shall be open to the public.

Section 405.600. Appeals, Hearing and Notice. [Ord. No. 636 Zoning Art. XIII §1304, 2-7-1968; Ord. No. 903 §1(1304.2), 2-8-1996; Ord. No. 1137 §§1 — 2, 7-9-2009]

A. Appeals to the Board of Adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in Section 32.150, RSMo., representing such person, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days after the action by filing with the Building Inspector and with the Board a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all the papers constituting the record of the action appealed from.

B. *Procedures For Filing Appeals.*

1. Appeals shall be filed in triplicate upon such form as is provided by the Board. The form shall be completed in its entirety. The filing charge for all appeals shall be five dollars (\$5.00) with an additional fee of fifteen dollars (\$15.00) for advertising where a newspaper notice is to be published.
2. *Information required.* An appeal shall contain the following information:
 - a. Plot plan of the property affected by the proposed appeal, drawn to a scale of not smaller than 1" = 50', and indicating thereon the dimensions of the property, the dimensions and locations of any buildings or structures, driveway access to public rights-of-way, on-site drives and off-street parking areas located thereon and all public and private rights-of-way including utility easements bounding or intersecting the property.
 - b. List of the names and current mailing address of owners, together with the street address and legal description of all property (exclusive of streets and alleys) within a one hundred eighty-five (185) foot distance from the boundary of the property affected by the proposed appeal. This list shall be prepared and certified by a qualified abstractor;
 - c. Present zoning classification and use of the property affected by the appeal;
 - d. Requested use and desired use of the property affected by the appeal; and
 - e. Justification for the variance requested.
3. *Postage fee.* In addition to the non-refundable application fee described above, the application shall also be accompanied by a non-refundable postage fee which shall be computed by the City Clerk by multiplying the number of certified mailings required

to landowners within a one hundred eighty-five (185) foot distance from the boundary of the property affected by the appeal by the then-applicable postage rates for such certified mail. The number of mailings shall be computed based upon the information provided in accordance with Subsection (2)(b) above.

4. *Time of application.* The City Clerk shall note the date of filing of the application.
- C. The Board of Adjustment shall fix a reasonable time for the hearing of an appeal, shall give at least ten (10) days' notice to the public and to the parties in interest and shall decide the same within a reasonable time after it is submitted. Upon the hearing, any party may appear in person or by agent or attorney.

Section 405.610. Stay of Proceedings. [Ord. No. 636 Zoning Art. XIII §1305, 2-7-1968]

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Inspector certified to the Board after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the Building Inspector and on due cause shown.

Section 405.620. Power and Duties. [Ord. No. 636 Zoning Art. XIII §1306, 2-7-1968; Ord. No. 861 §12, 8-11-1994]

- A. The Board of Adjustment shall have the following powers and duties.
1. *Administrative review.* To reverse or affirm, wholly or partly, or modify the order, requirements, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Building Inspector from whom the appeal is taken.
 2. *Special exceptions.* To hear and decide special exceptions to the terms of this Chapter upon which the Board is required to pass under this Chapter. The Board will receive from the Commission a recommendation either for or against the proposed special exception.
 3. *Variances.* Where there are practical difficulties or unnecessary hardships relating to the unique nature or condition of the property in the way of carrying out the strict letter of this Chapter, the Board of Adjustment shall have the power, in passing upon appeals, to vary or modify the application of the regulations or provisions of this Chapter relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of the Chapter shall be observed, public safety and welfare secured and substantial justice done. Such variance may be granted in each individual case upon a finding by the Board of Adjustment that the following criteria applies:
 - a. The variance would not be out of harmony with the intent and purpose of this Chapter.

- b. The variance would not injure the value, use of or prevent the access of light and air to the adjacent properties or to the area in general.
 - c. The circumstances found to constitute a hardship relating to the unique condition or nature of the property were not created by the appellant, are not due to or are the result of general conditions in the district, nor can be reasonably corrected.
 - d. The variance would not authorize any use other than uses-by-right in the district.
 - e. An unnecessary hardship relating to the unique condition or nature of the property could be shown to exist if this Chapter were to be literally interpreted or followed.
4. *Classifications.* To classify commercial and industrial uses not specifically tested in this Chapter.

Section 405.630. Board of Adjustment — Decisions Subject To Review — Procedure.

Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, any neighborhood organization as defined in Section 32.105, RSMo., representing such person or persons or any officer, department, board or bureau of the municipality, may present to the Circuit Court of the county or City in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board. Upon the presentation of such petition the Court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order. The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his/her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceedings under Sections 89.080 to 89.110, RSMo., shall have preference over all other civil actions and proceedings.

**ARTICLE XIII
Amendments**

Section 405.640. Amendments. [Ord. No. 636 Zoning Art. XIV §1401, 2-7-1968]

This Chapter, including the Official Zoning Map, may be amended from time to time, but no amendment shall become effective unless it shall have been proposed by, or shall first have been submitted to, the Commission for review and recommendation. The Commission shall have thirty (30) days within which to submit its report to the Board of Aldermen. If the Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.

Section 405.650. Application Regulations. [Ord. No. 636 Zoning Art. XIV §1402, 2-7-1968]

- A. In order to have a proposed change of district or amendment approved by the Commission, persons requesting the same shall comply with the following:
1. At the time of an application for the change of a zoning district or amendment to the zoning text is filed with the Commission, there shall be deposited the sum of twenty dollars (\$20.00) as a fee to cover investigation, legal notices and other expenses incidental to the determination of such matter.
 2. An application for a change of district to a commercial district shall contain a minimum area of one (1) acre. The area, should more than one (1) parcel of land be involved, shall be contiguous exclusive of any streets or easements.
 3. An application for a change of district to an industrial district shall contain a minimum area of two (2) acres. The area, should more than one (1) parcel of land be involved, shall be contiguous exclusive of any streets or easements.
 4. The foregoing requirements in Subsections (2) and (3) will not apply in the case of an extension of a commercial or industrial district.
 5. A person presenting an application for a change of district may not be entitled to have such change considered and acted upon by the Board of Aldermen unless and until the Commission has certified that such change is not inconsistent with the principles of the future land use plan of the City of Mound City, Missouri.
 6. The foregoing requirements shall not limit the introduction of amendments on their own initiative by the Board of Aldermen.

Section 405.660. Public Hearing. [Ord. No. 636 Zoning Art. XIV §1403, 2-7-1968]

A public hearing shall be held by the Board of Aldermen before adoption of any proposed amendment to this Chapter. A notice of such public hearing shall be given in a newspaper of general circulation in the City of Mound City, Missouri, said notice to be published the first (1st) time not less than fifteen (15) days prior to the date established for such public hearing.

Section 405.670. Protest. [Ord. No. 636 Zoning Art. XIV §1404, 2-7-1968]

In case of a protest against such change signed by the owners of thirty percent (30%) or more, either of the area of the lots included in such proposed change or of those immediately adjacent thereto, extending one hundred eighty five (185) feet therefrom or of those directly opposite thereto extending one hundred eighty five (185) feet from the street frontage of such opposite

lots, such amendment shall not become effective except by favorable vote of two-thirds (2/3) of all the members of the Board of Aldermen.

ARTICLE XIV
Legal Status Provisions

Section 405.680. Conflict With Other Regulations. [Ord. No. 636 Zoning Art. XV §1501, 2-7-1968]

- A. Whenever the regulations made under authority of this Chapter require a greater width or size of yards or courts or require a lower height of building or less number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other Statute or local ordinance or regulation, the provisions of the regulations made under authority of this Chapter shall govern.
- B. Wherever the provisions of any other Statute or local ordinance or regulation require a greater width or size of yards or courts or require a lower height of building or a less number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this Chapter, the provisions of such Statute or local ordinance or regulation shall govern.

ARTICLE XV
Penalty

Section 405.690. Penalty.

- A. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of Sections 89.010 to 89.140, RSMo., or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made under authority of Sections 89.010 to 89.140, RSMo.
- B. The owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) for each and every day that such violation continues, but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars (\$100.00) or more than two hundred fifty dollars

(\$250.00) for each and every day that such violation shall continue or by imprisonment for ten (10) days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.

- C. Any such person who having been served with an order to remove any such violation shall fail to comply with such order within ten (10) days after such service or shall continue to violate any provision of the regulations made under authority of Sections 89.010 to 89.140, RSMo., in the respect named in such order shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).

ARTICLE XVI Special Use Permits

Section 405.700. Special Use Permits. [Ord. No. 1134 §1, 1-8-2009]

- A. The development and administration of the zoning ordinance is based on the division of the City into districts, within any one of which the use of land and buildings and the bulk and location of buildings or structures, as related to land, are essentially uniform. However, there are special uses which because of their unique character cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring lands and upon the public need for the particular use or the particular location. Some special uses are entirely private in character, but of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- B. *Procedure.* The approval of a special use permit shall require the same procedure as the rezoning of land, including published notice, public hearing, advisory decision of the Planning Commission and final passage by the Board of Aldermen. Final action shall be by resolution of the Board of Aldermen.
- C. *Applicability Of Permit.* A special permit granted under this Article is a permit issued to the individual applying for the special use (herein, "applicant") and, therefore, shall not run with the property, but shall be personal in nature unto the applicant. No applicant shall have the right to in any way transfer, assign, barter or sell said special use permit and said special use permit shall terminate upon any transfer of the property by the applicant including by sale or lease.

Section 405.710. Application For Special Use Permit. [Ord. No. 1134 §2, 1-8-2009]

- A. All applications for a special use permit shall be made by written application to the City Clerk on forms provided for such purpose. Unless the application shall conform in all respects to the requirements of this Chapter, it shall not be accepted by the City Clerk.
- B. *Information Required.* An application for a special use permit shall contain the following information:
 - 1. Plot plan of the property affected by the proposed special use permit, drawn to a scale of not smaller than 1" = 50', and indicating thereon the dimensions of the property, the dimensions and locations of any buildings or structures, driveway access to public rights-of-way, on-site drives and off-street parking areas located thereon and all

- public and private rights-of-way including utility easements bounding or intersecting the property;
2. List of the names and current mailing address of owners, together with the street address and legal description of all property (exclusive of streets and alleys) within a one hundred eighty-five (185) foot distance from the boundary of the property affected by the proposed special use permit. This list shall be prepared and certified by a qualified abstractor;
 3. Present zoning classification and use of the property affected by the special use permit;
 4. Requested special use and desired use of the property affected by the special use permit; and
 5. Justification for the special use requested.
- C. *Application Fee.* The application shall be accompanied by a filing fee based on the area of property for which the special use permit is requested, computed as follows:
- For the first 10,000 square feet per each 1,000 square feet or fraction thereof \$125.00
For the next 60,000 square feet per each 1,000 square feet or fraction thereof \$1.00
For the next 130,000 square feet per each 1,000 square feet or fraction thereof \$.50
- D. *Postage Fee.* In addition to the non-refundable application fee described above, the application shall also be accompanied by a non-refundable postage fee which shall be computed by the City Clerk by multiplying the number of certified mailings required to landowners within a one hundred eighty-five (185) foot distance from the boundary of the property affected by the proposed special use permit by the then-applicable postage rates for such certified mail. The number of mailings shall be computed based upon the information provided in accordance with Subsection (B), above.
- E. *Time Of Application.* The City Clerk shall note the date of filing of the application.

Section 405.720. Standards. [Ord. No. 1134 §3, 1-8-2009]

- A. No special use shall be granted unless the use:
1. Is deemed necessary for the public convenience at that location.
 2. Is so designed, located and proposed to be operated that public health, safety and welfare will be protected.
 3. Will not cause substantial injury to the value of other property in the neighborhood in which it is located.
 4. Will comply with the height and area regulations of the zoning district(s) in which it is located unless specifically granted otherwise.

Section 405.730. Conditions. [Ord. No. 1134 §4, 1-8-2009]

The Planning and Zoning Commission may recommend, and the Board of Aldermen may provide, such conditions and restrictions upon the construction, location and operation of a special use including time limit, provisions for off-street parking and loading and any other conditions as may be deemed necessary to promote the general objectives of this Title and to minimize any injury to the value of property in the neighborhood. Failure to maintain such conditions or restrictions as may have been imposed shall constitute grounds for revocation of the permit for such special use.

Section 405.740. Termination of Permit Caused By Failure To Use or Construct. [Ord. No. 1134 §5, 1-8-2009]

- A. A special use permit granted hereunder to any applicant shall terminate twelve (12) months following the issuance of said permit if the applicant has not within such twelve (12) month period:
 - 1. Obtained a building permit from the City to construct the structure contemplated by the permit and commenced construction of the structure contemplated thereby, or
 - 2. Failed to commence using the property for the use contemplated by said permit.
- B. Should such permit terminate pursuant to Subsection (A), the applicant may re-apply for a special use permit, in which case all application provisions of this Chapter shall begin anew. When contemplating the same use of the property, re-application for a special use permit by the same applicant may only occur once in any three (3) year period. The Board of Aldermen may approve or deny such re-application and, if approved, may impose restrictions and conditions on said permit which are lesser, the same as, or greater than those imposed on the original permit, and shall not be bound by its prior approval of applicant's permit nor by its prior restrictions and conditions in making a decision on the re-application.

Section 405.750. Enlargement of A Special Use Application. [Ord. No. 1134 §6, 1-8-2009]

- A. No use allowed by a special use permit shall be enlarged, altered, changed or modified, except by conforming to all provisions of this Chapter.
- B. No existing structure which is the subject of a special use permit shall be enlarged, expanded, constructed, reconstructed, moved or structurally altered without conformance to all provisions of this Chapter.
- C. Should an applicant be required to re-apply for any of the reasons listed in Subsections (A) or (B), a denial of the application by the Board of Aldermen will only deny the enlargement of the special use permit and will not serve in any way to revoke the original special use permit granted the applicant. When contemplating an enlargement of the use of the property, re-application for a special use permit by the same applicant may only occur once in any three (3) year period.

Section 405.760. Recording. [Ord. No. 1134 §7, 1-8-2009]

Prior to the issuance of any building permit or permit authorizing the use of the property in question, the property owner shall record a copy of the approved special use permit, including the legal description of the real estate, all conditions and any subsequent amendments thereto with the Holt County Recorder of Deeds and provide the City Clerk with a copy of same.