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HAMILTON ZONING ORDINANCE

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ORDINANCE 846

AN ORDINANCE TO REGULATE AND RESTRICT THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE, INDUSTRY, COMMERCE, RESIDENCE OR OTHER PURPOSE; TO REGULATE AND RESTRICT THE HEIGHT OF BUILDINGS HEREAFTER ERECTED OR ALTERED; TO REGULATE AND DETERMINE THE AREA OF YARDS AND OTHER OPEN SPACES ABOUT BUILDINGS; TO REGULATE AND DETERMIN THE DENSITY OF USE OF LAND AND LOT AREAS; AND FOR SAID PURPOSES TO DIVIDE THE CITY INTO DISTRICTS; TO PROVIDE FOR ENFORCEMENT AND A BOARD OF ADJUSTMENT, AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

WHEREAS, the Board of Alderman of the City of Hamilton, Missouri deems it necessary in order to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of buildings and property, and to encourage the most appropriate use of land throughout the City with reasonable consideration, and in accordance with a comprehensive plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HAMILTON, MISSOURI:

ARTICLE I TITLE

Sec. 1.00 TITLE:

“This Ordinance shall be known and may be referenced to as the “Zoning Ordinance of the City of Hamilton, Missouri”.

ARTICLE II INTERPRETATION OF STANDARDS

Sec. 2.00 GENERAL:

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this Ordinance shall control. Where for specific land, the requirements of any other ordinance of the City of Hamilton are more stringent or restrictive than the requirements set forth herein, nothing herein shall be construed to waive compliance with provisions of such other ordinance.

ARTICLE III DEFINITIONS

- Sec. 3.00 **GENERAL:** For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and plural the singular. The word "building" shall include the word "structure", the word "shall" is mandatory, and not directory.
- Sec. 3.02 **ACCESSORY USE OF STRUCTURE:** A use or structure subordinate to the principal use of a building on the lot, and serving a purpose customarily incidental to the use of the principal building.
- Sec. 3.04 **ALLEY:** A public way, for the use of vehicles affording a secondary means of access to abutting property.
- Sec. 3.06 **APARTMENT:** A room or suite of rooms in a multi-family dwelling intended or designed for use as a residence by a single family.
- Sec. 3.08 **BASEMENT:** A story having part, but not more than one-half of its height below grade. A basement is counted as a story.
- Sec. 3.10 **BEGINNING OF CONSTRUCTION:** The incorporation of labor and materials within the walls of the building or buildings.
- Sec. 3.12 **BILLBOARD:** Any structure or portion of a building used for display of advertising; or any advertising sign other than:
- a. Church or similar bulletin board.
 - b. Signs pertaining only to lease, hire, or sale of a building or premises, which is located on the subject building or premises.
 - c. Signs advertising the sale of products grown only upon the premises.
 - d. An announcement or identification sign carrying the name and address of the owner or tenant residing on the premises.
- Sec. 3.13 **BOARD OF ALDERMAN:** The governing body of the City of Hamilton, Missouri; also known and referred to as the City Council for the purposes of this Ordinance.
- Sec. 3.14 **BUILDING:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.
- Sec. 3.16 **BUILDING, HEIGHT OF:** The vertical distance from the average, natural grade at the building line, to the highest point of the coping of a flat roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

ARTICLE III DEFINITIONS

- Sec. 3.18 **BULK STATIONS:** Distributing stations commonly known as bulk or tank stations, used for storage and distribution of flammable liquids, or liquified petroleum products.
- Sec. 3.20 **CELLAR:** That portion of a building having more than one-half of its height below grade. A cellar is counted as a story.
- Sec. 3.22 **DISTRICT:** A section or sections of the City within which the regulations governing the use of buildings and premises, or the height and area of buildings and premises are uniform.
- Sec. 3.24 **DWELLING:** Any building, or portion thereof, which is designed or used exclusively for residential purposes.
- Sec. 3.26 **DWELLING, SINGLE FAMILY;** A dwelling designed for or occupied exclusively residence purposes by one family or housekeeping unit.
- Sec. 3.28 **DWELLING, TWO FAMILY:** A dwelling designed for, or occupied exclusively by two families, or housekeeping units, living independently of each other.
- Sec. 3.30 **DWELLING, MULTI-FAMILY:** A dwelling designed for, or occupied by more than two families, or housekeeping units, living independently of each other.
- Sec. 3.32 **FAMILY:** A group of one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel, as defined herein.
- Sec. 3.34 **FRONTAGE:** All the property on one side of a street between two intersecting streets measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and dead end of the street.
- Sec. 3.36 **GARAGE, PRIVATE:** A garage intended for , and used by, the private motor vehicle of the families resident upon the premises: however, such garage shall not be used for more than one (1) small commercial vehicle per family resident upon the premises.
- Sec. 3.38 **GRADE:** The average level of the finished surface of the ground adjacent to the building.
- Sec. 3.40 **HOME OCCUPATION:** Any occupation or activity carried on by a member of the immediate family residing on the premises in connection with which there is used no sign other than a name plate affixed to the outer wall, of not more than one square foot in area, which will indicate from the exterior of the building is being utilized in part for any purpose other than of a dwelling; there is kept no stock in trade nor commodity sold upon the premises; no person is employed other than a member of the immediate family residing on the premises.

ARTICLE III DEFINITIONS

- Sec. 3.42 HOTEL:** A building in which lodging or boarding and lodging are provided and offered to the public for compensation, and in which ingress to and egress to and from all rooms is made through an inside lobby or office, supervised by a person in charge at all hours.
- Sec. 3.44 JUNK YARD:** Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, automobile, tractor, or machinery wrecking and used parts yards, but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded, or salvaged materials as part of the manufacturing operation.
- Sec. 3.46 LOT:** Parcel of land occupied, or intended for occupancy by one main building, together with its accessory buildings officially approved, and having frontage upon a public street.
- Sec. 3.48 LOT, CORNER:** A lot abutting upon two (2) or more streets at their intersection.
- Sec. 3.50 LOT, DEPTH OF:** The mean horizontal distance between the front and rear depth lines.
- Sec. 3.52 LOT, DOUBLE FRONTAGE:** A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
- Sec. 3.54 LOT, INTERIOR:** A lot other than a corner lot.
- Sec. 3.56 LOT LINES:** The lines bounding a lot.
- Sec. 3.58 LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the Office of the County Recorder of Caldwell County; a tract or a parcel of land, the deed of which was recorded in the Office of the County Recorder of Caldwell County prior to the adoption of this Ordinance.
- Sec. 3.60 LOT WIDTH:** The width of a lot measured at the building line and at right angles to its depth.
- Sec. 3.61 MOBILE HOME:** Manufactured housing built on a chassis, as defined by R.S. MO. Chapter 700
- Sec. 3.62 MOTEL:** A building, or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with garage attached, or parking facilities conveniently located near each unit.

ARTICLE III DEFINITIONS

- Sec. 3.64 **NON-CONFORMING USE:** Any building, or land lawfully occupied by a use at the time of passage of this Ordinance or amendments hereto, which does not conform after the passage of this Ordinance or amendments thereto with the use regulations of the district in which it is situated.
- Sec. 3.66 **PARKING SPACE:** An area of not less than two hundred fifty (250) square feet, either within a structure or in the open, exclusive of the driveway or access drives, for the parking of a motor vehicle.
- Sec. 3.68 **STORY:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is not a floor above it, then the space between the floor and the ceiling or roof next above it.
- Sec. 3.70 **STORY, HALF:** A space under a sloping roof which has the line of intersection of roof decking and the wall face not more than four (4) feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.
- Sec. 3.72 **STREET:** A public right-of-way that affords the principal means of access to abutting property.
- Sec. 3.74 **STREET LINE:** A dividing line between a lot, tract, or parcel of access to abutting property.
- Sec. 3.76 **STRUCTURE:** Anything constructed or erected, the sum of which requires permanent location on the ground, or attached to something having a permanent location on the ground.
- Sec. 3.78 **STRUCTURAL ALTERATION:** Any replacement or changes in the type of construction or in the supporting members of a building or structure, such as bearing walls, or partitions, columns, beams, or girders, beyond ordinary repairs and maintenance, as may be required for the safety of the building.
- Sec. 3.80 **TOURIST HOME:** A residential building in which rooms are available for rental purposes as overnight sleeping accommodations, primarily for automobile travelers.
- Sec. 3.82 **TRAILER:** Any structure, including a mobile home, used for living, sleeping, business, or storage purposes having no foundation other than wheels, blocks, skids, jacks, or skirting, and which has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term "trailer" shall include camp car or house car.

**ATICLE III
DEFINITIONS**

- Sec. 3.84 TRAILER PARK:** Any lot, or portion of lot, upon which two (2) or more trailers or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of wether or not a charge is made for such accommodation.
- Sec. 3.86 YARD:** An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a lot for the purpose of determining the depth of a front yard, or the depth of the rear yard, the least distance between the lot line and the main building shall be used.
- Sec. 3.88 YARD, FRONT:** A yard extending across the full width of the lot and measured between the front of the lot line and the building, or any projection thereof, other than the projection of the usual steps or enclosed porches.
- Sec. 3.90 YARD, REAR:** A yard extending across the full width of the lot and measured between the rear lot line and the building, or any projections other than steps, unenclosed balconies, or porches. On corner lots, the rear yard shall be considered parallel to the street upon which the lot has its least dimension. The rear yard shall in all cases, be at the opposite end of the lot from the front yard.
- Sec. 3.92 YARD, SIDE:** A yard extending from the front yard to the rear yard and measured between the side lot lines and the building, or any projection thereof.
- Sec. 3.94 ZONING ADMINISTRATIVE OFFICER:** The individual appointed by the City Council to administer and enforce the provisions of this Ordinance.

OTHER DEFINITION: Other terms, phrases, an word meanings shall be interpreted to conform with the meaning set forth in WEBSTERS DICTIONARY of the English Language.

**ARTICLE IV
DISTRICTS AND BOUNDARIES**

Sec. 4.00 GENERAL:

In order to classify, regulate, and restrict the location of trades, industries, and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces within and surrounding such buildings, the City of Hamilton, Missouri, is hereby divided into seven (7) classes of districts. The use of height and areas regulations are uniform in each class of district, and said districts shall be known as:

- “A-1” Rural Restricted District
- “R-1” Single Family Residential District
- “R-2” Residential District
- “C-1” Commercial District
- “I-1” Industrial District
- “MH-1” Mobile Home District
- “P/PS” Public/Semi Public District

Sec. 4.10 ZONING DISTRICT MAP: The boundaries of these districts are indicated upon the Zoning District Map of the City of Hamilton, Missouri, and made a part of this Ordinance by reference. The said Zoning District Map and all notations, references, and other matters shown thereon, shall be as much a part of this Ordinance as if notations, references, and other matters set forth by said map were fully described herein; the original set of which is properly attested, and is on file in the Office of the City Clerk of the City of Hamilton, Missouri.

Sec. 4.20 INTERPRETATION OF DISTRICT BOUNDARIES: The district boundaries are either lot lines, or the center lines of street and alleys, unless otherwise shown, and where the districts designated are bounded approximately by street, alley, or lot lines, and are not dimensioned otherwise, the lot lines or center lines of streets and alleys shall be construed to be the boundary of the district.

Sec. 4.30 ZONING ANNEXED AREAS: All territory which may be hereafter be annexed to the City of Hamilton, Missouri shall be considered as being in the “A-1” Rural Restricted District until otherwise changed by ordinance.

**ARTICLE V
GENERAL REGULATIONS**

- Sec. 5.00 CONFORMANCE REQUIRED:** Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this Ordinance for the district in which the building or land is located.
- Sec. 5.10 NON-CONFORMANCE USES:** The lawful use of a building or land existing on the effective date of this Ordinance may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, the non-conforming use of a building may be changed to another non-conforming use of the same, or of a more restricted classification. Whenever a non-conforming use has been changed to a more restricted use, or a conforming use, such use shall not thereafter be changed to a less restricted use. The non-conforming use of a building may be thereafter extended throughout those parts of a building which were manifestly arranged or designed for such use at the time of the enactment of this Ordinance.
- Sec. 5.20 DISCONTINUANCE OF NON-CONFORMING USE:** No premises, building, or portion thereof, used in whole or part for non-conforming purposes according to the provisions of this Ordinance, which hereafter become and remain vacant for a continued period of two (2) calendar years shall again be used except in conformity with the regulations of the district in which such building or premises is situated.
- Sec. 5.30 DAMAGED NON-CONFORMING BUILDINGS:** No building which has been damaged by fire, explosion, act of God, or public enemy, to the extent of more than fifty (50) percent of the fair market value of the building immediately prior to damage, shall be restored except in conformity with the regulations of this Ordinance. If a building is damaged by less than fifty (50) percent of the fair market value, it may be repaired or reconstructed, and used as before the time of the damage, provided that such repairs and reconstruction be done within six (6) months of the date of such passage.
- Sec. 5.35 CONDEMNATION:** Any structure that has been a threat to health, safety, and welfare to the general public shall be reconstructed and/or removed by the owner within two years of condemnation.

**ARTICLE V
GENERAL REGULATIONS**

- Sec. 5.40 ACCESSORY BUILDINGS:** No accessory building shall be erected in any required court, or in any yard other than a rear yard except as provided hereinafter. Accessory buildings shall be at least three (3) feet from lot lines of adjoining lots which are in any "R" District; on a corner lot they shall conform to the set-back regulations on the side street; there shall be at least five (5) feet from any other separate building or structure on the same lot, and at least five (5) feet from any alley line, except that when any entrance to an accessory building faces the alley, said accessory building shall be at least twenty (20) feet from any alley line. Accessory buildings may be erected as part of the principal building, or may be connected thereto by a breeze-way or similar structure, and such accessory building shall be considered as part of the principal building for all yard requirements. A carport or garage for a residence may be in a side yard provided between the garage or carport and the side lot line. An accessory building is provided between the garage and carport and the side lot line. An accessory building within fifty (50) feet of the front lot line shall have a full side yard between it and the side lot line. Accessory buildings which are not a part of the main building shall not occupy more than thirty (30) percent of the rear yard, and shall not exceed fifteen (15) feet in height; however, this regulation shall not be interpreted to prohibit the construction of a five hundred fifty (550) square foot garage on a minimum rear yard.
- Sec. 5.50 CORNER LOTS:** For corner lots platted after the effective date of this Ordinance, the side street yard shall be equal in width to the set-back regulation of the lots to the rear having frontage on the intersecting street. If there are no lots to the rear having frontage on the intersecting street, the side yard shall be not less than fifty (50) percent of the front yard requirement. On corner lots platted and of record at the time of the effective date of this Ordinance, the same regulations shall apply, except that this regulation shall not be so interpreted as to reduce the build able width of the corner lot facing an intersecting street to less than twenty-eight (28) feet not to prohibit the erection an accessory building.
- Sec. 5.60 FRONT YARD:** In any "R" District there shall be a minimum front yard required as stated in the yard requirements for that particular district: provided that in no case shall the front yard depth be less than the smallest front yard depth of an existing building within two hundred (200) feet of either side lot line.
- Sec. 5.70 REQUIRED YARD CANNOT BE REDUCED:** No lot shall be reduced in size so as to make the width or total area of the lot, or any yard, or any open space, less than the minimum required by this Ordinance. No part of a yard, or other open space provided about a building or structure for the purpose of complying with the provisions of this Ordinance, shall be included as a part of a yard or open space required under this Ordinance for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space, except as otherwise specified in this Ordinance.

**ARTICLE V
GENERAL REGULATIONS**

- Sec. 5.80 BUILDING LINES ON APPROVED PLATS:** Whenever the plat of a land subdivision approved by the Planning and Zoning Commission/Board and on Office of the County Recorder shows a set-back building line along any frontage for the purpose of creating a front or side yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this Ordinance, unless specific yard requirements in this Ordinance require a greater set-back.
- Sec. 5.85 SPECIAL CONSIDERATIONS:** In considering all appeals, and all proposed exceptions or variations to this Ordinance, the Board shall, before making any exceptions or variations; first determine that it will not impair the safety and welfare of the occupants of adjoining and surrounding property, that health has been adequately safeguarded, that it will not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public street, shall not increase public danger of fire and safety, shall not diminish or impair established property values in surrounding areas. The concurring vote of three (3) members of the Board shall be necessary to reverse any order or decision of the Zoning Administrative Officer, or to decide in favor of the applicant on any matter upon which it is authorized by this Ordinance to render a decision. Nothing herein contained, shall be construed to give or grant to the Board of Adjustment the power or authority to alter or change the Zoning Ordinance or the Zoning District Map; such power and authority being reserved to the Board of Aldermen in the manner hereinafter provided within the Article of Amendments.
- Sec. 5.90 TRAILERS AND MOBILE HOMES:** Mobile homes or trailers shall be principal permitted uses only in trailer parks. Mobile homes or trailers are permitted elsewhere in the City only by special use permit.
- Sec. 5.95 DILAPIDATED STRUCTURES:** Any building which has been damaged by fire, explosion, act of God, or the public enemy, to the extent it becomes a threat to the health, safety and welfare of the general public, shall be reconstructed or removed by the owner within six (6) months of the date of the damage.

ARTICLE VI
“A-1” RURAL RESTRICTED DISTRICT

Sec. 6.00 REGULATIONS: The regulations set forth in this Article, or elsewhere in this Ordinance, when referred to in this Article, shall apply to the “A-1” Rural Restricted District.

Sec. 6.10 USE REGULATIONS: A building or premises shall be used only for the following purposes:

A. Principal Permitted Uses:

1. Single-family dwellings except in areas designated as below the one hundred (100) year flood plain.
2. Farms, truck gardens, orchards and nurseries, provided that no poultry, or livestock shall be raised within one hundred (100) feet of any residence or residential district.
3. Transient amusement enterprises, such as a carnival, circus, rides and shows, subject to approval by the City Council.
4. Extraction of minerals or raw material, subject to prior recommendation from the Planning and Zoning Commission, and approval by the City Council.
5. Outdoor advertising signs and billboards, provide that prior recommendation is obtained for such signs and/or billboards from the Planning and Zoning Commission, and approval granted by the City Council.
6. Veterinary establishments, provided that all buildings, including animal runway and exercise yards, be at least one hundred (100) feet distant of all property lines.

B. Accessory Uses:

1. Accessory buildings and uses customarily incident to any of the above uses.
2. Bulletin boards and signs pertaining to the lease, hire or sale of a building or premises; or signs pertaining to any material that is grown or treated within the district; provided, however, that such signs shall be located upon, or immediately adjacent to the building or in the ares in which such materials are treated, processed, or stored.

ARTICLE VI
“A-1” RURAL RESTRICTED DISTRICT

- Sec. 6.20 HEIGHT REGULATIONS:** No building shall exceed two and one-half (2-1/2) stories, or shall it exceed thirty-five (35) feet in height, except as hereinafter provided.
- Sec. 6.30 LOT AREA, LOT FRONTAGE AND YARD REQUIREMENTS:** The following minimum requirements shall be observed:

<u>USE</u>	<u>DWELLINGS</u>
Lot area	1 Acre
Lot Width	160 Feet
Lot Area Per Family	1 Acre
Front Yard Depths	50 Feet
Side Yard Widths	15 Feet
Rear Yard Depths	50 Feet

ARTICLE VII
R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 7.00 REGULATIONS: The regulations set forth in this Article, or elsewhere in this Ordinance which are applicable, shall apply in the "R-1" Residential District.

Sec. 7.10 USE REGULATIONS: A building or premises shall be used only for the following purposes;

A. Principal Permitted Uses:

1. Single-family and two-family dwellings.
2. Private schools, or other educational institutions.
3. Agriculture, including truck gardening, but not the raising of poultry, pets, animals or livestock for commercial purposes, or on a schedule that would be objectionable because of noise or odor to surrounding residences.

B. Accessory Uses:

1. Home occupations.
2. Bulletin boards, or signs not exceeding fifty (50) square feet in the area pertaining to the construction, lease, hire or sale of a building or premises, which board or sign shall be removed as soon as the premises, which board shall be removed as soon as the premises are leased, hired, sold or construction completed.
3. Church bulletin boards.

Sec. 7.20 HEIGHT REGULATIONS: No building shall exceed two and one-half (2-1/2) stories, or thirty-five (35) feet in height, and no accessory structure shall exceed one (1) story or fifteen (15) feet in height.

**ARTICLE VII
R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT**

Sec. 7.30 LOT AREA, LOT FRONTAGE, AND YARD REQUIREMENTS: The following minimum requirements shall be observe, subject to the modifications contained within the Article of Exceptions and Modifications.

<u>USE</u>	<u>DWELLINGS</u>
Lot Area	5,000 Sq Ft
Lot Width	60 Feet
Lot Area Per Family	5,000 Sq Ft
Front Yard Depths	25 Feet
Side Yard Widths	10% of Average Lot Width 10 Ft Minimum
Rear Yard Depths	30 Fee

**ARTICLE VIII
R-2" RESIDENTIAL DISTRICT**

Sec. 8.00 REGULATIONS: The regulations set forth in this Article, or elsewhere in this Ordinance which are applicable, shall apply in the "R-2" residential District.

Sec. 8.10 USE REGULATIONS: A building or premises shall be used only for the following purposes:

A. Principal Permitted Uses:

1. Any use permitted in the "R-1" District.
2. Multi-family dwellings.
3. Funeral Homes and mortuaries.
4. Boarding and lodging houses.
5. Hospital, clinics, nursing and convalescent homes, except animal hospitals and clinics.
6. The office or studio of a doctor, dentist, lawyer, teacher or other member of a recognized profession in his dwelling, provided that not more than the equivalent be used for such purposes.

B Accessory Uses:

1. Accessory uses permitted in the "R-1" District

Sec. 8.20 HEIGHT REGULATIONS: No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

Sec: 8.30 LOT AREA, LOT FRONTAGE, AND YARD REQUIREMENTS: The following minimum requirements shall be observed, subject to the modifications contained within the Article of Exceptions and Modifications.

<u>USE</u>	<u>BUILDINGS</u>
Lot Area	5,000 Sq Ft
Lot Width	60 Feet
Lot Area Per Family	5,000 Sq Ft
Front Yard Depths	25 Feet
Side Yard Widths	10% of Average Lot Width (10 ft Minimum)
Rear Yard Depths	30 Feet

ARTICLE IX
“C-1” COMMERCIAL DISTRICT

Sec. 9.00 REGULATIONS: The regulations set forth in this Article or elsewhere in this Ordinance which are applicable, shall apply in the “C-1” Commercial District.

Sec. 9.10 USE REGULATION: A building or premises shall be used only for the following purposes:

A. Principal Permitted Uses:

1. Any use permitted in the “R-2” Residential District.
2. Shops for sale of goods and products at retail, including gasoline service stations.
3. Shops for repair and servicing of electrical, radio and television appliances, bicycles, and similar articles.
4. Laundry, dry cleaning, shoe repair, tailoring, dressmaking, and similar trades.
5. Banks, offices and studios.
6. Personal service shop, such as barber shops and beauty parlors.
7. Animals hospitals and clinics where there are no open kennels or yards.
8. Parking lots and storage garages.
9. Theaters.
10. Heating, plumbing, sheet-metal and electrical shops.
11. Auto service garages, new and used car lots.
12. Farm implement sales and repair shops.
13. Ballrooms, billiard parlors, pool halls, and bowling alleys.
14. Restaurants, cafes and soda fountains.
15. Lumber yards, carpenter and cabinet shops.
16. Hotels, motels and auto courts.

ARTICLE IX
“C-1” COMMERCIAL DISTRICT

A. Principal Permitted Uses, Continued:

17. Outdoor advertising signs.
18. Wholesale business or storage warehouse.

In the “C-1” Commercial District, as long as the uses are not obnoxious or offensive due to the emission of noise, odor, dust or vibration, there may also be:

1. Dairy products manufacturing.
2. Commercial bakeries.
3. Cleaning, dyeing and laundry works.
4. Food and fiber products manufacturing.
5. Sign painting shops.
6. Truck terminals, trailer and truck services.
7. Wood products manufacturing.
8. Other uses similar to the above in accordance with requirements shown within the Article entitled Board of Adjustment.

B. Accessory Uses:

1. Accessory uses permitted in the “R-2” District
2. Outdoor advertising signs and billboards, provided that no such sign or billboard shall be permitted where the majority of the buildings on a block are exclusively residence on both sides of the street, or which faces, the front or side lot line of any lot in any “R” District used for residential purpose, or which faces any public parkway, public square, or entrance to any public park, school, church, or similar institution within three hundred (300) feet thereof. No sign shall be located in such a manner or place as will constitute a hazard to endanger or impair the safety of pedestrians or motorists. No flashing signs shall be allowed on the sides of lots adjacent to a residential district.

Sec. 9.20 HEIGHT REGULATIONS: No building shall exceed three (3) stories or thirty-five (35) feet in height.

**ARTICLE X
I-1" INDUSTRIAL DISTRICT**

Sec. 10.00 REGULATIONS: The regulations set forth in this Article, or elsewhere in this Ordinance which are applicable, shall apply in the "I-1" Industrial District.

Sec. 10.10 USE REGULATIONS: A building or premises shall be used only for the following purposes:

A. Principal Permitted Uses:

1. Grain elevators.
2. Light foundry casting.
3. Lumber yards.
4. Iron works, ornamental.
5. Paper products manufacturing.
6. Plastics products manufacturing (previously prepared material)
7. Contractor's storage yard and other open storage uses.
8. Well drilling services.
9. Seed corn processing.
10. Other uses similar to the above, which will not be obnoxious or offensive by reason or emission of odor, dust, smoke, gas or noise, provided that permission is granted in accordance with the procedure outlined within the Article entitled Board of Adjustment.
11. No zoning permit shall be issued for any of the following uses until, and unless, the location of such use shall have been authorized by the City Council after reports by the Zoning Administrator, City Engineer, Chief of the Fire Department and the local Health Officer:
 - a. Slaughterhouse or stockyards.
 - b. Acid manufacturing or wholesale storage of acids.

**ARTICLE X
I-1" INDUSTRIAL DISTRICT**

- c. Cement, lime, gypsum or plaster of paris manufacture.
- d. Chemical manufacturing.
- e. Distillation of bones or fat rendering.
- f. Explosive manufacture.
- g. Fertilizer manufacture.
- h. Garbage, dead animal reduction or dumping, provided that all refuse is earth-covered daily.
- i. Gas manufacture and cylinder recharging.
- j. Glue, size or gelatine recharging.
- k. Junkyards, where the premises upon which such activities are conducted are wholly enclosed within building wall or fence, not less than eight (8) feet in height and completely obscuring the activity from sight from surrounding lots, streets, or highways.
- l. Petroleum, or its products, refining or wholesale storage of.
- m. Rubber goods manufacture.
- n. Sand or gravel pits.

The best practical means known for the disposal of refuse matter, or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or other similar nuisance shall be employed by these uses. Such disposal practices shall comply with all state and federal statutes and regulations.

Sec. 10.20 HEIGHT REGULATIONS: No structure shall exceed in height the distance measured to the right-of-way line of the nearest street, or one-half the distance of a line measured to the closest lot line of a more restrictive classification of property from any portion of the proposed building or structure, except as hereinafter modified by the Article entitled Exceptions and Modifications.

ARTICLE XI
“MH” MOBILE HOME DISTRICT

- Sec. 11.00 REGULATIONS:** The regulations set forth in this Article or elsewhere in this Ordinance which are applicable, shall apply in the “MH” Mobile Home District.
- Sec. 11.10 USE REGULATIONS:** This district is designed solely for the purpose of locating mobile homes, such district creating a “Trailer Park”.
Accessory uses shall include:
1. Accessory buildings and uses customarily incidental to operation or existence of a trailer park.
 2. Bulletin boards and signs pertaining to the lease, hire, or sale of a building or premises.
- Sec. 11.20 HEIGHT REGULATIONS:** No building shall exceed two and one-half (2 1/2) stories, nor shall it exceed thirty-five (35) feet in height, except as hereinafter provided.
- Sec. 11.30 LOT AREA, LOT FRONTAGE, AND YARD REQUIREMENTS:** Trailer parks shall provide a minimum of twelve hundred fifty (1,250) square feet of space, excluding drives, automobile parking spaces and accessory buildings, for each and every trailer accommodated. Each trailer space shall be at least twenty-five (25) feet wide, and shall provide a yard not less than ten (10) feet wide on every side of the trailer. No trailer shall be located closer than twenty-five feet from any property line bounding the park. All trailer parks shall be developed at a maximum density of ten (10) trailer spaces per acre with a minimum number of twenty-five (25) spaces within the park and shall be provided with a public water supply and public sanitary sewers. All traffic routes contained within the park shall be hard surfaced and maintained by the park.

ARTICLE XII
“P/SP” PUBLIC/SEMI-PUBLIC DISTRICT

Sec. 12.0 **REGULATIONS:** The regulations set forth in this Article, or elsewhere in this Ordinance which are applicable, shall apply in the “P/SP” Public/Semi-Public District.

Sec. 12.10 **USE REGULATIONS:** A building or premises shall be used only for the following purposes:

A. Principal Permitted Uses:

1. Churches and cemeteries, institutions of a religious, philanthropic, or charitable nature except penal or correctional institutions.
2. Public schools, public parks, playgrounds, community buildings and similar community facilities.
3. Public private forests and wild life reservations, or similar conservation projects.
4. Public utility structures and equipment necessary for the operation thereof.
5. Non-commercial parks, playgrounds and community buildings owned or operated by public or semi-public agencies and equipment necessary for the operation thereof.

B. Accessory Uses

1. Municipal service facilities such as utility lines, sewage treatment areas, and water filtration plants owned or operated by public or semi-public agencies and equipment necessary for the operation thereof.
2. Parking areas designated to serve public, semi-public areas.
3. Bulletin boards or signs not exceeding twenty-five (25) square feet pertaining to the said use of specific public/semi-public lands.

Sec. 12.20 **HEIGHT REGULATIONS:** No building shall exceed two and one-half (2 1/2) stories, nor shall exceed thirty-five (3) feet in height, except as hereinafter provided.

**ARTICLE XIII
PARKING AND LOADING AREAS REQUIRED**

Sec. 13.00 OFF-STREET LOADING SPACES REQUIRED: In an district in connection with every building or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is occupied by manufacturing, storage, goods display, retail store, wholesale store, hotel, hospital or other use similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one (1) off-street loading space plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area so used. Each loading space shall not be less than ten (10) feet in width and twenty-five (25) feet in length. Such space may occupy any part of the required yard or court space.

Sec. 13.10 OFF-STREET PARKING AREA REQUIRED:

- A. In all districts, in connection with every industrial, business, institutional, recreational or dwelling use and for similar uses, space for parking and storage of vehicles shall be provided of sufficient area to care for the normal parking demands of the building involved. However, in no case shall the parking area provided by less than that shown on the following schedule:
1. Automobile sales and service garages, banks, business and professional offices, retail stores - fifty (50) percent of the floor area.
 2. Bowling alleys - five (5) spaces for each alley.
 3. Churches and schools - one (1) space for each five (5) seats in the principal auditoriums, one (1) space for each office and each classroom.
 4. Dance halls, assembly halls, restaurants - two hundred (200) percent of the floor area.
 5. Dwelling - one (1) parking space for each family or dwelling unit.
 6. Hospitals - one (1) space for each four (4) beds.
 7. Manufacturing plants - one (1) space for each three (3) employees on the maximum working shift.
 8. Theaters or assembly halls with fixed seats - one (1) parking space for each four (4) seats.
 9. Wholesale establishments or warehouses - one (1) space for each employee.

**ARTICLE XIII
PARKING AND LOADING AREAS REQUIRED**

- B. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is mentioned and to which said use is similar, shall apply.
- C. Where a lot does not abuts on a public or private alley or easement or access, there shall be provided an access drive not less than eight (8) feet in width in the case of a dwelling, and not less than sixteen (16) feet in width in all leading to the loading or unloading spaces and parking or storage areas required hereunder.
- D. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:
 - 1. No part of any parking space shall be closer than five (5) feet to any established street right-of way or alley line.
 - 2. Any off-street parking area, including any commercial parking lot, for more than two (2) vehicles, shall be surfaced with a material approved by the City Council, so as to provide a durable surface: shall be graded and drained so as to dispose of all surface water accumulation within the area: and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.
 - 3. Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any residential district.

**ARTICLE XIV
VARIANCES AND CONDITIONAL USES**

Sec. 14.0 **GENERAL:** The regulations specified in this Ordinance shall be subject to the following provisions for variances and conditional uses. A variance may be obtained where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the requirements of this Ordinance, as a means, under limited circumstances, for a property owner to make some beneficial use of his land despite the limits imposed by this Ordinance, but only in cases where the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A conditional use is that type of use which, due to its nature, is dissimilar to the normal use permitted within a given zoning district or where product, process, mode of operation or nature of business may prove detrimental to the health, safety, welfare or property values of the immediate neighborhood and its environs; a conditional use may be permitted only after any additional requirements imposed are fully complied with, and may be subjected to time limitations.

Sec. 14.10 **VARIANCES:** A variance may be sought from the Board of Adjustment after the Zoning Administrative Officer has determined that the applicant's proposed construction upon or use of his land does not meet the requirements of this Ordinance in one or more respects, in the manner and within the time described in Article XV of this Ordinance. All applications for a variance shall be made upon the form provided and shall include the following information:

Sec. 14.20 **STANDARDS GOVERNING VARIANCES:** Under normal circumstances, the power to grant a variance shall be exercised sparingly and only under exceptional circumstances; variances in the use of land require a greater showing of hardship upon the applicant than variances in height, bulk and area requirements. Economic hardship to the applicant if a variance is not granted is a factor which may be considered, but standing alone will not support the grant of a variance. Hardship conditions must relate to the land involved in the applications, not to some personal condition of the applicant. Where hardship is established, the Board may still deny the application if the variance will have sufficiently adverse impact upon the area or spirit of this Ordinance. The Board may condition grant of a variance upon compliance with reasonable conditions.

Notwithstanding the foregoing, all applications for a variance which meet or exceed the requirements of this Section shall be granted as a matter of right upon proper application therefore.

**ARTICLE XIV
VARIANCES AND CONDITIONAL USES**

- A. In an district where dwellings are permitted, a single-family dwelling may be located upon any lot or tract of land if, although not meeting the existing setback requirements, the following requirements are met:
 - 1. The side yard width of the lot or tract is not less than ten percent (10%) of the width of the lot, and in no case less than five (5) feet.
 - 2. The depth of the rear yard of such lot or tract is not less than twenty percent (20%) of the dept of the lot, but in not case less than ten (10) feet.

- B. Public, semi-public, and public service buildings, hospitals and schools, when permitted in the district, may be erected to a height exceeding the height allowed for the district if the building is set back from each property line at least one (1) foot for each foot of additional building height above the height limit for the district.

- C. In an district where neither public water supply nor public sanitary sewer is available, if the required lot area is at least twice the minimum square footage stated in the yard requirements for the district, and if the lot widths at the building line are twice the minimum requirements for such district, then use my be permitted, subject to compliance with all other requirements of this Ordinance and other ordinances of the City pertaining thereto.

Sec. 14.30 **CONDITIONAL USES:** A conditional use permit may be obtained only after full compliance with the requirements of this Section. The applicant shall file with the Zoning Administrative Officer an original and four copies of an application upon the form provided. Such application shall be completely filled out and shall include the following information:

- A. An accurate plan drawn to scale of the lot or tract of land for which the application is made, showing existing and proposed building locations, parking areas, types of outdoor lighting, interior drives and landscaped buffer strips: all dimensions and setback distances applicable to these features shall be clearly and accurately indicated; and

- B. Land photography and location and type of existing utilities, abutting streets, alleys or easements, and the square footage of land within the lot or trace; and

- C. The full names, residence addresses and telephone numbers of all owners, lessees and tenants of the land to which the application relates; and

**ARTICLE XIV
VARIANCES AND CONDITIONAL USES**

- D. A written or pictorial description of the architecture and exterior materials to be utilized for all proposed buildings, structures and improvements, including landscaping.

Within five (5) days of the filing of such application, the applicant shall place a sign on the lot or tract of land to which the application relates; such sign shall be placed in a conspicuous location, shall be so constructed as to withstand the elements, and shall have exterior dimensions of not less than 2.5 feet by 3 feet with the following words clearly lettered with letters not less than two inches in height:

THIS PROPERTY IS BEING CONSIDERED FOR A CONDITIONAL USE PERMIT BY THE HAMILTON PLANNING COMMISSION FOR (TYPE OF USE). WRITTEN OBJECTIONS MUST BE FILED WITH THE COMMISSION NOT LATER THAN (DATE).

Said sign shall remain on the property until final disposition of the application.

Upon receipt of an application for a conditional use, the Zoning Administrative Officer shall forward copies of the application and accompanying information to all affected public or governmental agencies and the planning Commission. The Planning Commission shall request and consider reports from such public or governmental agencies before determination, and within sixty (60) days after the receipt of the application, the Planning Commission shall submit a report and determination to the Zoning Administrator which shall include a finding that the proposed use will or will not:

- A. Serve the convenience and general welfare of the public.
- B. Serve the neighborhood in some degree.
- C. Protect the neighborhood interest.
- D. Alter the character or nature of development of the neighborhood.
- E. Be in basic harmony with the various elements and objectives of the Master Plan.

**ARTICLE XIV
VARIANCES AND CONDITIONAL USES**

F. Comply with the requirements established for that conditional use.

The Planning Commission's report shall approve or disapprove a conditional use application in accordance with the requirements established in this Article, and may impose additional requirements deemed reasonable and necessary.

The Planning Commission's report shall also establish any time limitations imposed upon the grant of the conditional use unless deemed detrimental to the community interest to do so. A conditional use permit subjected to a time limitation may be renewed at the discretion of the Planning Commission for such additional period or periods of time as are determined necessary to protect and promote the purposes served by this Ordinance. The Planning Commission's report shall be forwarded to the Zoning Administrative Officer who shall promptly notify the applicant of the Planning Commission's decision and take such further action as may be necessary to comply with such report. A conditional use granted is subject to the express limitations and requirements established in the Planning Commission's report, which shall not be lessened or subverted in any manner unless application is sought for a variance with respect thereto.

Sec. 14.40 CONDITIONAL USE PERMIT REQUIRED: The following uses of land shall, notwithstanding anything in this Ordinance to the contrary, be allowed only after grant of a conditional use permit:

- A. The placement of any trailer outside of a Mobile Home District.
- B. Location of any of the following buildings or uses in a district otherwise prohibited by this Ordinance:
 - 1. Any public building erected and used by any department of the city, county, state or federal governments.
 - 2. Airport or landing field.
 - 3. Community building or recreation field or park.
 - 4. Country clubs and golf courses.
 - 5. Public and private cemeteries.

ARTICLE XIV
VARIANCES AND CONDITIONAL USES

- C. Placement of any above-ground utility or railroad structure not in existence before October 7, 1991.
- D. Placement of chimneys, fire towers, monuments, water towers, ornamental towers, and spires, radio and television towers and necessary mechanical or electronic structures exceeding the height regulations established for the particular district.

**ARTICLE XV
BOARD OF ADJUSTMENT**

- Sec. 15.00 BOARD CREATED:** The City Council shall appoint a Board of Adjustment which is hereby established and shall consist of five (5) members of which not more than two (2) shall be from the Planning Commission. Each member of the Board shall be appointed for a term of five (5) years, excepting that when the Board is first established one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Members shall be removable for cause by the appointing authority upon written charges and public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. No officer nor employee of the City of Hamilton shall serve on the Board of Adjustment.
- Sec. 15.10 MEETINGS:** The meetings of the Board of Adjustment shall be held at the call of the Chairman, and at such other times as the Board may determine. Such Chairman, or in his absence the acting Chairman, may administer oaths, and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt its own rules of procedure not in conflict with this Ordinance or with Missouri Revised Statutes and may select or appoint such officers as it deems necessary. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.
- Sec. 15.20 APPEALS:** Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department or board of the City, affected by any decision of the Zoning Administrative Officer. Such appeal shall be taken within ten (10) days from date of aggrieving action by filing with the Zoning Administrative Officer. Such appeal shall be taken within ten (10) days from date or aggrieving action by filing with the Zoning Administrative Officer. Such appeal shall be taken within ten (10) days from date or aggrieving action by filing with the Zoning Administrative Officer, and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The zoning Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrative Officer certifies to the Board after notice of appeal shall have been filed with him, that by reason of the acts stated in the certificate a stay would, in his 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 Zoning Administrative Office and on due cause shown. The Board shall fix a reasonable time for the hearing on the appeal, give fifteen (15) days public notice thereof in the City's official newspaper, as well as due notice to the parties in interest and decide the same within a reasonable time. Before the appeal is filed with the Board of Adjustment, the appellant shall pay a fee of ten dollars (\$10.00) to the City Clerk to be credited to the general fund of the City.

**ARTICLE XV
BOARD OF ADJUSTMENT**

Sec. 15.30 JURISDICTION: The Board of Adjustment shall have the following powers and it shall be its duty:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrative Officer in the enforcement of this Ordinance.

- B. The Board of Adjustment shall have the power to grant the following special exceptions in the following instances and as enumerated within the Article of Exceptions and Modifications:
 - 1. Permit the extension of a district where the boundary line of a district divides a lot of record held in a single ownership.

 - 2. Permit the erection and use of a building, or the use of premises for railroads or public utility purposes.

 - 3. To reduce the parking and loading requirements in any of the districts whenever the character or use of the buildings in such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

 - 4. To determine the district in which a commercial venture or industry should be located where such commercial venture or industry is not specifically mentioned in this Ordinance.

- C. The Board of Adjustment shall have the power to grant variances: When a property owner can show that his property was acquired in good faith, and where by reason of exceptional Topographical conditions or other extraordinary situations, the strict application of the terms of this Ordinance actually prohibits the use of his property in a manner reasonably similar to that of other property in the district, and where the Board is satisfied under the evidence before it, that the granting of such variation will alleviate a clearly demonstrable hardship: provided, however, that all variations granted under this clause shall be in harmony with intended spirit and purpose of this Ordinance.

**ARTICLE XV
BOARD OF ADJUSTMENT**

Sec. 15.40 **SPECIAL CONSIDERATIONS:** In considering all appeals, and all proposed exceptions or variations to this Ordinance, the Board shall, before making any exceptions or variations, first determine that it will not impair the safety and welfare of the occupants of adjoining and surrounding property, that health has been adequately safeguarded, that it will not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public street, shall not increase public danger of fire and safety, and shall not diminish or impair established property values in

surrounding areas. The concurring vote of three (3) members of the Board shall be necessary to reverse any order or decision of the Zoning Administrative Officer, or to decide in favor of the applicant on any matter upon which it is authorized by this Ordinance to render a decision.

Nothing herein contained shall be construed to give or grant to the Board of Adjustment the power or authority to alter or change the Zoning Ordinance or the Zoning District Map, such power and authority being reserved to the City Council in the manner hereinafter provided within the Article of Amendments.

Sec. 15.50 **NOTICE:** The Board shall make no finding except in a specific case, and after a public hearing conducted by the Board. A notice of the time and place of such public hearing shall be published in a newspaper of general circulation within Caldwell County, and at least fifteen (15) days previous to the hearing. Such notice shall contain the address or location of the property for which variation, special exceptions or other ruling by the Board is sought, as well as a brief description of the nature of the appeal.

Sec. 15.60 **RECORDS:** The action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein has been recorded in the minutes. Such resolution, immediately following the Board's final decision, shall be filed in the office of the Board and it shall be open to public inspection. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.

**ARTICLE XV
BOARD OF ADJUSTMENT**

Sec. 15.70 **RELIEF:** Any taxpayer or an officer, department or board of the City, or any person or persons jointly or separately aggrieved by any decision of the Board, may present to a court of record a petition to be 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 direct the Board to review such decision of the Board, and shall prescribe therein the time within which a return thereto shall be made, 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 on the decision appealed from, but court may on application, upon notice to the Board, and on due cause shown, grant a restraining order. If, upon the hearing, it shall appear to the court that testimony is necessary for proper disposition of the matter, it may take such evidence as it may direct, and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or in part, 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 bad faith, or with malice in making the decision appealed from.

**ARTICLE XVI
ADMINISTRATION**

- Sec. 16.00 ENFORCEMENT:** The City Council shall appoint an Administrative Officer and necessary assistants and it shall be the duty of said Officer to enforce this Ordinance. It shall also be his duty to examine all applications for certificates and permits, issue certificates and permits for construction and the establishment of uses which are in accordance with the requirements of this Ordinance, record and file all applications for certificates and permits with accompanying plans and documents, and make such reports as the City Council or the Board of Adjustment may require. Certificates and permits for construction and uses which are a special exception or variance to requirements of this Ordinance shall be issued only upon order by the Board of Adjustment. The Administrative Officer shall have the authority to enter upon the premises for inspection purposes.
- Sec. 16.10 ZONING PERMIT REQUIRED:** A Zoning Permit shall be obtained from the Administrative Officer before starting or proceeding with the erection, construction moving in, or the structural alteration of a building or structure.
- Sec. 16.20 OCCUPANY CERTIFICATE REQUIRED:** An Occupancy Certificate shall be obtained from the Administrative Officer before the use or occupancy of any building, structure, mobile home, or land may commence for any use.
- Sec. 16.30 GENERAL:** All billboards shall hereafter require permits before erection and shall therefore be registered with the Administrative Officer. Only one permit shall be required for a double face or V-type advertising device; however, the sum of the area shall be used in determining the fee. Certificates in good standing shall not be assignable from one party or company erecting and responsible for a billboard to another; however, the advertising face may be changed without effect to a certificate in good standing. The party or company erecting and responsible for each billboard shall be responsible for its proper maintenance and shall be subject to assessment of the costs incurred for removal of unmaintained billboards. The Administrative Officer is hereby granted the power to effect the removal of said unmaintained billboards after proper notice has been given to responsible parties and after their failure to act within sixty (60) days of that notice. Removal of billboards shall cause revoke of that related certificate.

**ARTICLE XVI
ADMINISTRATION**

Sec. 16.40 FEES: A fee for the issuance of said certificates shall be paid to the City at the City Clerk's office at the time of application. Fees for zoning permits shall be \$15.00; this includes conditional use permits (modifications). Building fees are as follows:

\$	0 -	1,000	.....	\$ 15.00
	1,001 -	5,000	.....	20.00
	5,001 -	15,000	.....	25.00
	15,001 -	40,000	.....	30.00
	40,001 -	100,000	.....	50.00
	100,001 -	+	.....	100.00

Certificate For Any Billboard:

If advertising area does not exceed
fifty (50) square feet \$10.00

If advertising area exceeds fifty feet
(50) square feet \$25.00

Sec. 16.50 PAYMENT OF FEES: Fees shall be paid to the City at the Office of the City Clerk.

Sec. 16.60 ISSUANCE OF CERTIFICATES: The Administration Officer shall issue, within seven (7) days of the complete application, a written Zoning Permit or Occupancy Certificate or denial thereof with reasons in writing. Except where an extension of time has been obtained in writing from the Administration Officer, permits hereafter issued shall expire within one hundred eighty (180) days if a substantial beginning has not been made in the construction, or if the use applied for has not been made in the construction, or if the use applied for has not been established within (1) year.

**ARTICLE XVII
SKETCH PLANS REQUIRED**

Sec. 17.00 GENERAL SKETCH PLAN: Each application for a Zoning Permit shall be accompanied by a sketch plan in duplicate, drawn to scale, showing the actual dimensions of the lot and such other information as may be necessary to provide for the enforcement of the Ordinance. The record of applications and sketch plans shall be kept in the City Clerk's Office.

**ARTICLE XVIII
AMENDMENTS**

- Sec. 18.00 AMENDMENTS:** The City Council may from time to time on its own action, or on petition, after public notice and hearings as provided by law, and after report by the Planning and Zoning Commission, amend, supplement, or change the boundaries or regulations herein, or subsequently established, and such amendment shall not become effective by the favorable vote of a majority of all the members of the City Council.
- Sec. 18.10 PROCEDURE:** Whenever any person, firm, or corporate desires that any amendment, or change be made in this Ordinance, including the text and/or Zoning District Map, as to any property in the City, and there shall be presented to the Council a petition requesting such change or amendment, and clearly describing the property and its boundaries as to the change or amendment is desired, duly signed by the owners of fifty (50) percent of the area of all real estate included within the boundaries of said tract as described in said petition, it shall be the duty of the Council to vote upon such petition within ninety (90) days after the filing of such petition with the City Clerk. Such Council vote shall take place only after a public hearing is held on the matter, said hearing to be announced at least fifteen (15) days in advance in a newspaper of general circulation in Caldwell County.
- Sec. 18.20 APPEALS OR GRIEVANCES:** In case the proposed amendment, supplement, or change be disapproved by the Planning and Zoning Commission, or a protest be presented duly signed by the owners of ten (10) percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the rear thereof, extending in the depth of one lot, or not to exceed two hundred (200) feet therefrom, or of those directly opposite thereto, extending, the depth of one lot, or not to exceed two (200) feet from the street frontage of such opposite lots, such amendment shall not become effective except by favorable vote of at least three-fourths (3/4) of all the members of the Council. Whenever any petition for an amendment, supplement, or change of the zoning, or regulations herein contained, or subsequently established shall have been denied by the City Council, then no new petition covering the same property, or the same property and additional property, shall be filed with or considered by the City Council until one (1) year shall have elapsed from the date of the filing of the first petition.
- Sec. 18.30 AMENDMENT APPLICATION FEE:** Before any action shall be taken as provided in this part, the party or parties proposing or recommending a change in the district regulations, or district boundaries, shall deposit with the City Treasurer the sum of twenty-five dollars (\$25.00) to cover the approximate costs of this procedure, and under no conditions shall said sum, or any part thereof, be refunded for failure of said amendment to be enacted into law.

**ARTICLE XIX
VIOLATIONS, PENALTIES, AND ENFORCEMENT**

- Sec. 19.00 VIOLATION AND PENALTIES:** Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance, upon conviction shall be fined not more than one hundred dollars (\$100.00) for each offense. Each day that the Zoning Administrative Officer is hereby designated and ordered to enforce this Ordinance.
- Sec. 19.10 ENFORCEMENT:** 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 Ordinance, the Zoning Administrative Officer, in addition to other remedies, shall institute any proper action or proceedings in the name of the City, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, 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 of business or use in or about said premises.

**ARTICLE XX
VALIDITY**

- Sec. 20.00 VALIDITY:** Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

**ARTICLE XXI
REPEAL OF CONFLICTING ORDINANCES**

- Sec. 21.00 REPEALER:** All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed insofar as the same are in conflict with the provisions of this Ordinance.

**ARTICLE XXII
WHEN EFFECTIVE**

- Sec. 22.00 EFFECTIVE DATE:** This Ordinance shall be in force and effect after its passage, approval, and publication as provided by law.

Ord 844

Passed, ordained, and adopted by vote of the City Council in special session this 6th day of Sept, A.D., 19 88.

Richard Evans, Mayor

Attest:

Ethel Lyon
City Clerk

Vote:

Alderman Adams - Aye, Alderman Dice - Aye, Alderman Allen - Aye,
Alderman Alexander - Aye

ORIGINAL in Zoning ORDINANCE
Book.