

Chapter 400

ZONING REGULATIONS

Cross References – As to buildings generally, ch. 500; as to mobile homes and mobile home parks generally, ch. 410; as to subdivision of land generally, ch. 405; the town boundaries and all annexation ordinances shall be on file in the city offices; all zoning district boundaries and changes shall be on file in the city offices.

ARTICLE I In General

Section 400.010. Purpose of Regulations – Districts Established. [R.O. 2012 §400.010; CC 1979 §32-1; Ord. No. A-1867 §1, 2-22-1984; Ord. No. A-6476 §1, 3-13-1997; Ord. No. A-6629, 2-5-1998]

For the purpose of promoting the health, safety, morals and general welfare of the community, by regulating and restricting the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land, regulating and restricting the location of trades and industries and the location and design of buildings for specific purposes, regulating and limiting the height and bulk of buildings, the area of yards and other open spaces and regulating and limiting the density of population, the City is hereby divided into districts, as follows:

- District "A" – first residential district (single-family)
- District "B" – second residential district (multiple dwellings)
- District "MD" – third residential district (medium density)
- District "AG" – fourth residential district (agricultural)
- District "MH" – fifth residential district (manufactured home)
- District "C" – local business district (retail and local service)
- District "LC" – light commercial district (retail and local service)
- District "D" – industrial district (manufacturing plants and heavy industry)
- District "LD" – light industrial district (manufacturing plants and light industry)
- District "O" – office district

Section 400.020. Zoning District Map – Classification of Annexed Areas. [R.O. 2012 §400.020; CC 1979 §32-2; Ord. No. A-1867 §2, 2-22-1984]

- A. The boundaries of the districts as enumerated and classified in Section 400.010 are hereby established and adopted as shown upon a map on file in the office of the City Clerk, which map is hereby made a part of this Chapter and is hereby designated as the "Zoning District Map". Such map, and all the notations, references and information shown thereon, are hereby made as much a part of this Chapter as if the same were set forth in full herein. It shall be the duty of the City Clerk to keep on file in his/her office the original of such District Map and duplicate copies thereof, showing all the changes, amendments or

additions thereto.

- B. When definite distances in feet are not shown on the Zoning District Map, the district boundaries on the Zoning District Map are intended to be along existing street, alley or plotted lot lines, or extensions of the same, and if the exact location of such line is not clear, it shall be determined by the Zoning and Planning Commission, due consideration being given to location, as indicated by the scale of the Zoning District Map.¹

Section 400.030. Compliance With District Regulations. [R.O. 2012 §400.030; CC 1979 §32-3; Ord. No. A-1867 §3, 2-22-1984; Ord. No. A-5667 §1, 3-10-1993; Ord. No. A-6743 §1, 9-16-1998; Ord. No. A-7098, 10-26-2001; Ord. No. 7669 §1, 6-20-2006; Ord. No. 7874 §§1 – 2, 8-20-2008]

A. Except as provided in this Chapter:

1. No buildings or structures shall be erected, moved, reconstructed or structurally altered, nor shall any building, structure or land be used for any purpose, other than is permitted in the district in which such building, structure or land is situated.
2. No building or structure shall be erected, moved, extended, enlarged, reconstructed or structurally altered to violate the height or area limit established in this Chapter for the district in which such building or structure is situated.
3. No lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by this Chapter, nor shall the density of population be increased in any manner, except in conformity with the area regulations established herein.
4. Notwithstanding any other provisions set forth in this Chapter, accessory buildings, including garages, utility buildings located on lots used for residential purposes in Zoning Districts "A" (single-family), "B" (multiple dwelling), "C" (local business) and "D" (industrial), when said accessory buildings are not constructed as an integral part of the main building located on said residential lots and are no larger than twenty-five (25) feet by twenty-five (25) feet and do not exceed one (1) story in height, shall be located on lots in the City of Monett so as to provide the following minimum setback or clearance distances, to-wit:
 - a. Side setback on interior lots – a minimum of three (3) feet;
 - b. Side setback on corner lots – same as side yard widths established in this Chapter for residences;
 - c. Rear setback for all lots – a minimum of ten (10) feet.

Accessory buildings which are larger than twenty-five (25) feet by twenty-five (25) feet or which exceed one (1) story in height shall comply with the minimum setback or clearance distances otherwise established by this Chapter.

5. Fences within fifteen (15) feet of a City street right-of-way line shall not exceed

1. Editor's Note: Former Subsection (C), which immediately followed, regarding A classification for properties annexed after August 8, 1961, was repealed 6-22-2015 by §1 of Ord. No. 8345.

forty-eight (48) inches in height. Except in District "AG", barbed wire fences and electric fences shall not be built.

Section 400.035. Definitions. [Ord. No. 8683, 7-1-2019]

The following words shall have the means as prescribed herein:

CHURCH — A building(s) primarily used for public religious worship and associated religious functions, including synagogues and temples.

DAY CARE — A Missouri Department of Health and Senior Services licensed, regulated, or childcare subsidized facility where care is provided for children by a child care provider for any part of the twenty-four (24) hour day. This includes licensed Family Home, Group Home, Child Care Center and State-inspected license exempt facilities.

MARIJUANA — Cannabis indica, cannabis sativa, and cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as seed thereof and resin extracted from the plant and marijuana-infused products. Marijuana does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent (3/10 of 1%) on a dry weight basis, commodities or products manufactured from industrial hemp.

MARIJUANA-INFUSED PRODUCTS — Products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments and concentrates.

MEDICAL MARIJUANA CULTIVATION FACILITY — A facility licensed by the State of Missouri to acquire, cultivate, process, store, transport, and sell marijuana to a Medical Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA DISPENSARY FACILITY — A facility licensed by the State of Missouri to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products and drug paraphernalia used to administer marijuana as provided for in this Section to a qualifying patient, a primary caregiver, another Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or a Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY — A facility licensed by the State of Missouri, to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Test Facility, or to another Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA TESTING FACILITY — A facility certified by the State of Missouri, to acquire, test, certify, and transport marijuana.

SCHOOL — Any public or private elementary or secondary school where instruction is given to students on a regular basis.

ARTICLE II

District "A" – First Residential (Single-Family) District

Section 400.040. Use Regulations. [R.O. 2012 §400.040; CC 1979 §32-4; Ord. No. A-1867 §1, 2-22-1984]

- A. In District "A", no building, structure, land or premises shall be used, and no building or structure shall be erected, moved, constructed or altered, except for one (1) or more of the following uses:
1. *One-family private residences.* "One-family" shall be defined as one (1) or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five (5) persons, excluding servants, living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a non-profit, cost sharing basis; or any group home which shall include 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; and shall include, but not be limited to, any private residence licensed by the Division of Family Services or Department of Mental Health to provide foster care to one (1) or more but less than seven (7) children who are unrelated to either foster parent by blood, marriage or adoption. 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.
 2. Public schools, public parks and playgrounds, golf courses, except miniature golf courses, driving ranges and similar activities operated as a business, museums, libraries, recreational buildings, fire stations or other public buildings of uses owned, controlled and operated exclusively by the City, the State or the United States.
 3. Accessory buildings, including a private garage, when situated upon the same lot with the main building and not less than sixty (60) feet from the front street line and, in the case of corner lots, no closer to the side street than is permitted for residences on that lot; except, that a private garage may be constructed as an integral part of the main building, subject to the height and area regulations of the main building.
- B. No billboards, signboards or advertising signs shall be permitted; except that a "For Sale" or "For Rent" sign no larger than four (4) square feet may be used and, during construction of a building, one (1) sign no larger than eight (8) square feet may be used advertising contractors or architects of such building.

Section 400.050. Height and Area Regulations. ² [R.O. 2012 §400.050; CC 1979 §32-5; Ord. No. A-1867 §4, 2-22-1984; Ord. No. A-5055 §1, 11-30-1988]

- A. In District "A", the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows:

2. Cross Reference – As to residences using a private sewage disposal system, §400.130.

1. *Height.* No building erected or structurally altered after August 8, 1961, shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except as otherwise provided in this Chapter.
2. *Rear yard.* The depth of the rear yard shall be not less than twenty percent (20%) of the depth of the lot; provided that such depth need not be more than twenty (20) feet.
3. *Front yard.* There shall be a front yard not less than twenty percent (20%) of the depth of the lot, but such front yard need not be more than twenty-five (25) feet, except as otherwise provided in this Chapter.
4. *Side yard.* There shall be a side yard on each side of a building not less than ten percent (10%) of the width of the lot, but in no event less than seven (7) feet in width. Buildings on corner lots where interior lots have been platted on side streets shall provide a side yard adjacent to the side of the street of not less than fifty percent (50%) of the front yard established for buildings on interior lots on the side street; provided, that this regulation shall not be so interpreted as to reduce the buildable width of a corner lot of record on August 8, 1961, to less than sixty-five percent (65%) of the total width of such lot; provided further, that the minimum side yard regulations in this Section must be observed. Accessory buildings on corner lots, where interior lots have been platted on side streets, shall not project beyond the front yard line established on the side street; provided, that this regulation shall not reduce the buildable width to less than twenty (20) feet.
5. *Lot area per family.* Every building or portion of a building erected, moved or altered for residence purposes in District "A" after August 8, 1961, shall provide a lot area of not less than seven thousand five hundred (7,500) square feet per family, with a frontage of not less than sixty (60) feet; provided, that where a lot, any contiguous lots or any tract has less area than herein required in separate ownership on such date, this regulation shall not prohibit the erection of a one-family dwelling on such lot, contiguous lots or tract.
6. *House area per lot and family.* Every building or portion of building erected, moved or altered for residence purposes in District "A" after August 8, 1961, shall contain not less than eight hundred (800) square feet of floor space, exclusive of garage or carport, per family.
7. *Garage area per lot.* In District "A", no private garage shall provide storage for more than one (1) vehicle for every three thousand (3,000) square feet of lot area.

ARTICLE III

District "B" – Second Residential (Multiple Dwelling) District

Section 400.060. Use Regulations. [R.O. 2012 §400.060; CC 1979 §32-6; Ord. No. A-1867 §5, 2-22-1984; Ord. No. A-1905 §3, 4-5-1962; Ord. No. A-4188 §1, 9-4-1980; Ord. No. A-6205 §1, 11-16-1995; Ord. No. 7370, 12-19-2003; Ord. No. 7520 §1, 1-31-2005]

- A. In District "B", no building, structure, land or premises shall be used, and no building or structure shall be erected, moved, constructed or altered, except for one (1) or more of the following uses:

1. Any use permitted in District "A".
2. Apartment houses.
3. Boardinghouses or lodging houses.
4. Churches.
5. Farming or truck gardening; provided, that no obnoxious fertilizers are stored or used on the premises.
6. Fraternity or sorority houses.
7. Hospitals, sanitariums or clinics, other than for tubercular, alcoholic, narcotic, or insane patients.
8. Mortuaries.
9. Music studios providing instruction in musical skills and selling music and musical instruments in conjunction with such instruction; provided, that such music studios are not offensive by reason of excessive noise.
10. Nurseries and greenhouses; provided, that no obnoxious fertilizers are stored or used on the premises.
11. Philanthropic or eleemosynary uses or institutions, other than a penal or correctional institution.
12. Private clubs, except clubs the chief activity of which is a service customarily carried on as a business.
13. Telephone business and switchboard office and related facilities; provided, that no building or structure constructed or used for such purpose shall be located nearer than five (5) feet from the lot line of any immediately adjoining and contiguous lot, upon which a residence or dwelling house is situated at the time a building or structure is constructed or first used for such purpose, and that no such building or structure shall be situated nearer to the street than any residence located upon an immediately adjoining and contiguous lot.
14. Two-family private residences.
15. Private or parochial schools, colleges and universities.
16. Hotels and apartment hotels, including only such facilities as are customarily required for the operation of a hotel or apartment hotel or for the use of or entertainment of guests or tenants; provided, that such facilities are conducted and entered from within the building; provided further, that no window or other display or sign is used to advertise the same.
17. Customary home occupations, such as the office of physician, dentist, surgeon, veterinarian, dressmaker, caterer, musician, artist, beautician or barber, under the following restrictions: That such uses are located in the dwelling used by a person as his/her private residence; that no assistant, except that of a receptionist or secretary,

other than a member of the family household, is employed; and that no window display or sign, either illuminated or more than one (1) square foot in area, is used to advertise the same.

18. One (1) realtor with no more than one (1) employee with off-street parking.
 19. Patio-homes (zero-lot-line homes) under the following conditions:
 - a. Two-unit homes are allowed, with each side under separate ownership.
 - b. The lot line shall be the common dividing line.
 - c. On the common dividing line (common lot line) a residential firewall as defined in the International Building Code shall be built as the separation wall.
 - d. Each unit shall have a separate water meter, electrical meter, gas meter (if gas service is desired), sewer service line, driveway, address, and sanitation container.
 - e. Minimum lot area per unit is three thousand seven hundred fifty (3,750) square feet.
 - f. All height and area regulations shall be the same as other District "B" regulations except the side setback distance on the common dividing line (common lot line) shall be zero (0). Frontage for residential patio homes shall be not less than fifty (50) feet along the City street right-of-way for each individual lot.
 - g. Patio homes larger than two (2) units shall not be allowed.
- B. The Zoning and Planning Commission may permit community garages in District "B", under the following limitations:
1. Such building shall be set back from the street line a distance of not less than ten (10) feet greater than the building line established by this Chapter.
 2. No commercial vehicles shall be housed in such community garages.
 3. Vehicles may be washed therein, but no commercial use of its premises shall be permitted.
 4. Such building shall not provide space for the storage of more than the total number of vehicles permitted by this Chapter to be stored on the lots served by such garage.
 5. Access thereto, if from the street, shall be by not more than one (1) driveway.

Section 400.070. Height and Area Regulations. [R.O. 2012 §400.070; CC 1979 §32-7; Ord. No. A-1867 §5, 2-22-1984; Ord. No. A-6432 §1, 1-31-1997; Ord. No. 7520 §2, 1-31-2005]

- A. In District "B", the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot used for residential purposes shall be as follows:
1. *Height.* No building erected or structurally altered after August 8, 1961, shall exceed

- three (3) stories or forty-five (45) feet in height, except as otherwise provided in this Chapter.
2. *Rear yard.* The depth of the rear yard shall be not less than twenty percent (20%) of the depth of the lot; provided, that such depth need not be more than twenty (20) feet.
 3. *Front yard.* Same as District "A".
 4. *Side yards.* Same as District "A".
 5. *Lot area per family.* Every building or portion of building erected, moved or altered for residential purposes in District "B" after August 8, 1961, shall provide a lot area per family as specified in District "A", in the case of one-family dwellings, three thousand seven hundred fifty (3,750) square feet per family in two-family dwellings and not less than one thousand (1,000) square feet per family in apartment houses.
 6. Frontage for every building or structure used for residential purposes shall be not less than sixty (60) feet, along the City street right-of-way. Frontage for residential patio homes shall be not less than fifty (50) feet along the City street right-of-way for each individual lot.
 7. *Garage area per lot.* No private garage shall provide space for storage for more than one (1) vehicle for each one thousand (1,000) square feet of lot area.

ARTICLE III-A

District "MD" – Third Residential (Medium Density) District

Section 400.071. Use Regulations. [R.O. 2012 §400.071; Ord. No. A-6456 §400.055, 2-28-1997]

- A. In District "MD" (Medium Density), no building, structure, land or premises shall be used, and no building or structure shall be erected, moved, constructed or altered, except for one (1) or more of the following uses:
 1. *One-family private residences.* "One-family" shall be defined as one (1) or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five (5) persons, excluding servants, living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a non-profit, cost sharing basis; shall include, but not be limited to, any home in which eight (8) or fewer unrelated mentally or physically handicapped persons reside, and may include two (2) additional persons acting as house parents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home; and shall include, but not be limited to, any private residence licensed by the Division of Family Services or Department of Mental Health to provide foster care to one (1) or more but less than seven (7) children who are unrelated to either foster parent by blood, marriage or adoption.
 2. Public schools, public parks and playgrounds, golf courses, except miniature golf courses, driving ranges and similar activities operated as a business, museums, libraries, recreational buildings, fire stations or other public buildings of uses owned, controlled and operated exclusively by the City, the State or the United States.

3. Accessory buildings, including a private garage, when situated upon the same lot with the main building and not less than sixty (60) feet from the front street line, and in the case of corner lots, no closer to the side street than is permitted for residences on that lot; except; that a private garage may be constructed as an integral part of the main building, subject to the height and area regulations of the main building.
- B. No billboards, signboards or advertising signs shall be permitted; except that a "For Sale" or "For Rent" sign may be used and, during construction of a building, one (1) sign may be used for advertising contractors, developers, or architects of such building.

Section 400.072. Height and Area Regulations. [R.O. 2012 §400.072; Ord. No. A-6457 §400.056, 2-28-1997; Ord. No. A-6524 §1, 6-20-1997; Ord. No. 7305, 4-14-2003]

- A. In District "MD" (Medium Density), the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows:
1. *Height.* No building erected or structurally altered after August 8, 1961, shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except as otherwise provided in this Chapter.
 2. *Rear yard.* The depth of the rear yard shall be not less than twenty percent (20%) of the depth of the lot; provided that such depth need not be more than twenty (20) feet.
 3. *Front yard.* There shall be a front yard not less than twenty percent (20%) of the depth of the lot, but such front yard need not be more than twenty-five (25) feet, except as otherwise provided in this Chapter.
 4. *Side yard.* There shall be a side yard on each side of a building not less than ten percent (10%) of the width of the lot, but in no event less than seven (7) feet in width. Buildings on corner lots where interior lots have been platted on side streets shall provide a side yard adjacent to the side of the street of not less than fifty percent (50%) of the front yard established for buildings on interior lots on the side street; provided, that this regulation shall not be so interpreted as to reduce the buildable width of a corner lot of record on August 8, 1961, to less than sixty-five percent (65%) of the total width of such lot; provided further, that the minimum side yard regulations in this Section must be observed. Accessory buildings on corner lots, where interior lots have been platted on side streets, shall not project beyond the front yard line established on the side street; provided, that this regulation shall not reduce the buildable width to less than twenty (20) feet.
 5. *Lot area per family.* Every Medium Density building or portion of a building erected, moved or altered for residence purposes in District "MD" after August 8, 1961, shall provide a lot area of not less than six thousand (6,000) square feet per family, with a frontage of not less than sixty (60) feet; provided, that where a lot, any contiguous lots or any tract has less area than herein required in separate ownership on such date, this regulation shall not prohibit the erection of a one-family dwelling on such lot, contiguous lots or tract.
 6. *House area per lot and family.* Every "MD" building or portion of building erected,

moved or altered for residence purposes in District "MD" after August 8, 1961, shall contain not less than eight hundred (800) square feet of floor space, exclusive of garage or carport, per family.

7. *Garage area per lot.* In District "MD", no private garage shall provide storage for more than one (1) vehicle for every three thousand (3,000) square feet of lot area.
8. Street design shall be in accordance with Chapter 405, "Subdivision of Land".

ARTICLE III-B

District "AG" – Fourth Residential (Agricultural) District

Section 400.073. Use Regulations. [R.O. 2012 §400.073; Ord. No. A-6459 §400.057, 2-28-1997]

- A. In District "AG" (Agricultural), no building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered except for one (1) or more of the following uses:
 1. Any use permitted in District "A".
 2. Farming, dairy farming, row-crop farming, livestock (cows, horses, goats, and other customary farm animals), game birds, pasture, orchards, horticulture, and all uses commonly classed as agricultural. (Exceptions: No feed lots, no confined animal operations, no hogs or swine, no commercial poultry operations.)
 3. Fish, hatcheries, apiaries, aviaries, stables, kennels.
 4. Fishing lakes, picnic groves. (Exceptions: No concession sales, no retail sales.)
 5. Forest and wildlife reservations, or similar conservation projects.
 6. Nurseries, greenhouses, truck gardens.
 7. Accessory uses, including repair shops, sheds, garages, barns, silos, irrigation wells, pumps, bunkhouses, incidental dwellings, buildings and structures customarily associated with agricultural uses. One (1) advertising sign not to exceed four (4) feet by four (4) feet shall be considered an accessory use. (Exceptions: No house trailers.)
 8. Customary home occupations as permitted in District "B".
 9. Day care homes or day care centers.
 10. Medical Marijuana Cultivation Facility, in an enclosed building. [Ord. No. 8683, 7-1-2019]
- B. There shall be no restrictions as to operation of vehicles or machinery customarily incidental to such uses. There shall be no restrictions as to the sale or marketing of products raised on the premises.
- C. Buildings or structures used for the raising, breeding, pasturing, housing or sale of livestock or products shall be located at least one hundred (100) feet from lot lines adjoining Districts "A," "B," or "C." Buildings or structures used for Medical Marijuana Cultivation Facilities shall be located at least one thousand (1,000) feet from any school,

church or day care facility. The prohibited distance shall be measured in the manner described in rules and regulations promulgated by the Department of Health and Senior Services. If a school, church or day care facility is established within the prohibited distance following construction or opening of a conforming medical marijuana facility, the medical marijuana business may remain at that location as a permitted use. [Ord. No. 8683, 7-1-2019]

- D. *Exceptions.* Nothing in the above-mentioned Subsections shall be construed so as to prohibit enforcement of Chapter 225 "Nuisances", Chapter 210 "Animals and Fowl", or the International Property Maintenance Code.

Section 400.074. Height and Area Regulations. [R.O. 2012 §400.074; Ord. No. A-6458 §400.058, 2-28-1997]

- A. In District "AG" (Agricultural), the height of buildings, the minimum dimensions of lots and yards, the minimum lot area per family, the minimum frontage and the setback for agricultural buildings or structures shall be as follows:
1. *Height.* Buildings of structures shall not exceed thirty-five (35) feet or two and one-half (2½) stories in height.
 2. *Front yard.* Minimum depth of front yard shall be fifty (50) feet.
 3. *Side yard.* Minimum depth of side yard shall be fifty (50) feet.
 4. *Rear yard.* Minimum depth of rear yard shall be fifty (50) feet.
 5. *Lot size.* Minimum lot size shall be five (5) acres per family.
 6. *Frontage.* Minimum frontage along a dedicated City right-of-way shall be two hundred (200) feet.
 7. *Setback for agricultural building or structures adjoining districts "A", "B" or "C".* Minimum setback shall be one hundred (100) feet.

ARTICLE III-C

District "MH" – Fifth Residential District (Manufactured Home) District

Section 400.075. Use Regulations. [R.O. 2012 §400.075; Ord. No. A-6633, 2-5-1998]

- A. In District "MH" (Manufactured Home), no building, structure, manufactured homes, land or premises shall be used, and no building or structure or manufactured homes shall be erected, moved, constructed or altered except for one (1) or more of the following uses:
1. *One-family private manufactured homes (mobile homes).* "One-family" shall be defined as one (1) or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five (5) persons, excluding servants, living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a non-profit, cost sharing basis; shall include, but not be limited to, any home in which eight (8) or fewer unrelated mentally or physically handicapped persons reside, and may include two (2) additional persons acting as house parents or guardians who

- need not be related to each other or to any of the mentally or physically handicapped persons residing in the home; and shall include, but not be limited to, any private residence licensed by the Division of Family Services or Department of Mental Health to provide foster care to one (1) or more but less than seven (7) children who are unrelated to either foster parent by blood, marriage or adoption.
2. Public schools, public parks and playgrounds, golf courses, except miniature golf courses, driving ranges and similar activities operated as a business, museums, libraries, recreational buildings, fire stations or other public buildings of uses owned, controlled and operated exclusively by the City, the State or the United States.
 3. Accessory buildings, including a private garage, when situated upon the same lot with the main building and not less than sixty (60) feet from the front street line, and in the case of corner lots, no closer to the side street than is permitted for residences on that lot; except, that a private garage may be constructed as an integral part of the main building, subject to the height and area regulations of the main building.
 4. No billboards, signboards or advertising signs shall be permitted; except that a "For Sale" or "For Rent" sign may be used and, during construction of a building, one (1) sign may be used advertising contractors, developers, or architects of such building.

Section 400.076. Height and Area Regulations. [R.O. 2012 §400.076; Ord. No. A-6457 §400.056, 2-28-1997; Ord. No. A-6524 §1, 6-20-1997; Ord. No. A-6629, 2-5-1998]

- A. In District "MH" (Manufactured Home), the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows:
1. *Height.* No building erected or structurally altered after August 8, 1961, shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except as otherwise provided in this Chapter.
 2. *Rear yard.* The depth of the rear yard shall be not less than twenty percent (20%) of the depth of the lot; provided that such depth need not be more than twenty (20) feet.
 3. *Front yard.* There shall be a front yard not less than twenty percent (20%) of the depth of the lot, but such front yard need not be more than twenty-five (25) feet, except as otherwise provided in this Chapter.
 4. *Side yard.* There shall be a side yard on each side of a building not less than ten percent (10%) of the width of the lot, but in no event less than seven (7) feet in width. Buildings on corner lots where interior lots have been platted on side streets shall provide a side yard adjacent to the side of the street of not less than fifty percent (50%) of the front yard established for buildings on interior lots on the side street; provided, that this regulation shall not be so interpreted as to reduce the buildable width of a corner lot of record on August 8, 1961, to less than sixty-five percent (65%) of the total width of such lot; provided further, that the minimum side yard regulations in this Section must be observed. Accessory buildings on corner lots, where interior lots have been platted on side streets, shall not project beyond the front yard line established on the side street; provided, that this regulation shall not reduce

the buildable width to less than twenty (20) feet.

5. *Lot area per family.* Every manufactured home building or portion of a building erected, moved or altered for residence purposes in District "MH" after August 8, 1961, shall provide a lot area of not less than six thousand (6,000) square feet per family, with a frontage of not less than sixty (60) feet; provided, that where a lot, any contiguous lots or any tract has less area than herein required in separate ownership on such date, this regulation shall not prohibit the erection of a one-family dwelling on such lot, contiguous lots or tract.
6. *House area per lot and family.* Every "MH" building or portion of building erected, moved or altered for residence purposes in District "MH" after August 8, 1961, shall contain not less than eight hundred (800) square feet of floor space, exclusive of garage or carport, per family.
7. *Garage area per lot.* In District "MH", no private garage shall provide storage for more than one (1) vehicle for every three thousand (3,000) square feet of lot area.
8. Street design shall be in accordance with Chapter 405, "Subdivision of Land".
9. The minimum subdivision area for any District "MH" Zone shall be ten (10) acres.

ARTICLE IV

District "C" – Local Business District

Section 400.080. Use Regulations. [R.O. 2012 §400.080; CC 1979 §32-8; Ord. No. A-1867 §6, 2-22-1984; Ord. No. A-1905 §2, 4-5-1962; Ord. No. A-2232 §1, 5-13-1965; Ord. No. A-2327 §2, 4-14-1966; Ord. No. A-3646 §§1 – 2, 3-19-1976; Ord. No. A-5394 §1, 5-30-1991; Ord. No. 7710, 11-22-2006; Ord. No. 7876 §1, 8-20-2008; Ord. No. 7921, 3-20-2009]

- A. In District "C", no building, structure, land or premises shall be used, and no building or structure shall be erected, moved, constructed or altered, except for one (1) or more of the following uses:
 1. Advertising signs, when the same advertise only services, articles or products which are offered within the building; provided such signs are attached to the building and do not extend above the outside walls of the building or are detached freestanding signs not located on the public right-of-way, in utility easements or within five (5) feet horizontally from overhead primary power lines and shall be pole mounted and elevated not less than six (6) feet. Any sign encroaching upon the public right-of-way shall comply with the International Building Code, as amended, and approved by the City of Monett. No detached billboards shall be allowed in District "C". *"Billboard"* is defined, for purposes of this Section, as a sign that draws attention to or communicates information about business, service, commodity, accommodation, attraction or other activity that is conducted, sold or offered at a location other than the premises on which the sign is located.
 2. Aluminum foundries and related activities.
 3. Any use permitted in District "B" except that along Broadway, between 2nd and 6th Streets, residential uses shall only be allowed on upper floors or in the rear of

buildings. Separate entrances are required and at least one (1) paved off-street parking space per unit is required.

4. Automobile parking yards or spaces.
5. Bakeries, employing not more than five (5) persons each.
6. Banks.
7. Barber and beauty shops.
8. Battery stations.
9. Bicycle sales and repair shops.
10. Cleaning, pressing and dyeing plants, employing not more than five (5) persons each; provided, that only non-explosive cleaning fluids shall be used.
11. Frozen food lockers.
12. Garages, storage.
13. Gasoline and oil filling stations; provided, that all storage tanks for gasoline shall be below the surface of the ground, and that no opening for the filling or emptying of such gasoline storage tanks shall be permitted within fifty (50) feet of any use permitted in Districts "A" and "B", when such boundary line is within the same block.
14. Hotels.
15. Ice delivery stations for the storage and sale of ice at retail only.
16. Job printing.
17. Laundries, employing not more than five (5) persons each.
18. Mobile home courts.
19. Motels.
20. Motor vehicle sales and service; provided, that no service facilities shall be maintained on the front portion of the lot or in the front portion of the first (1st) story of the building within thirty (30) feet of the front street.
21. Newspaper, magazine or book publishing.
22. Photographic studios and supplies.
23. Printing shops.
24. Radio and television sales and service shops and studios, except towers.
25. Restaurants, cafes or cafeterias.
26. Shoe repair shops.
27. Soft drink bottling plants and warehouses.

28. Storage for soft drinks, foods, groceries and related items.
29. Stores and shops for the sale of products at retail only.
30. Studios.
31. Taverns.
32. Telegraph offices.
33. Theaters or moving picture shows.
34. Tire shops.
35. Shops for custom work on the manufacture of articles to be sold at retail on the premises; provided, that in such manufacture, total mechanical power shall not exceed five (5) horsepower for the operation of any one (1) shop; provided further, that the space occupied by the manufactured use permitted therein shall not exceed fifty percent (50%) of the total floor area of the entire building or the equivalent of the ground floor area thereof; provided further, that such manufacturing use is not noxious or offensive by reason of vibration, noises or emission of odor, dust, smoke or gas.
36. Trailer courts.
37. *Woodworking shops*. Small woodworking shops with only immediate family members, no employees in the business.
38. Tattooing, body piercing and branding, provided such business has the required license issued by the State of Missouri, Division of Professional Licensing, Office of Tattooing, Body Piercing and Branding and the required license issued by the City of Monett. Further provided, that such business disposes of any bodily fluids and solid medical waste in accordance with the State of Missouri's existing rules and regulations and provides the City Clerk with a copy of its agreement with a licensed medical waste disposal company for the removal of all biohazardous waste. Water line service must have an approved reduced pressure principle backflow preventer device installed on the business water service to prevent cross-contamination of the City water main. Such business shall have handicapped access as provided by this Code.
39. Medical Marijuana Dispensary Facility, entirely within an enclosed building. [Ord. No. 8683, 7-1-2019]

B. Buildings or structures used for Medical Marijuana Dispensary Facilities shall be located at least one thousand (1,000) feet from any school and at least three hundred (300) feet from any church or day care facility. The prohibited distance shall be measured in the manner described in rules and regulations promulgated by the Department of Health and Senior Services. If a school, church or day care facility is established within the prohibited distance following construction or opening of a conforming medical marijuana facility, the medical marijuana business may remain at that location as a permitted use. No marijuana may be smoked, ingested, or otherwise consumed on the premises of a Medical Marijuana Dispensary. All Medical Marijuana Dispensaries shall be closed to the public, no persons

not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises or by delivery from the premises between the hours of 10:00 p.m. and 8:00 a.m. No Medical Marijuana Dispensary shall be located in a building that contains a residence. [Ord. No. 8683, 7-1-2019]

Section 400.090. Height and Area Regulations. [R.O. 2012 §400.090; CC 1979 §32-9; Ord. No. A-1867 §6, 2-22-1984; Ord. No. A-6432 §2, 1-31-1997]

- A. In District "C", the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows:
1. *Height.* Same as District "B".
 2. *Rear yard.* The depth of the rear yard shall not be less than twenty percent (20%) of the depth of the lot; provided, that such depth need not be more than twenty (20) feet.
 3. *Front yard.* The front yard need be of no greater depth than the least depth established by existing buildings in District "C" within the same block; except, that where a portion of a District "C" lies within the same block and fronts upon the same street with a portion of District "A" or "B", and no lot within such District "C" is occupied by a building with a front yard of less depth than that required in that portion of District "A" or "B" adjoining, the front yard requirements of such adjoining District "A" or "B" shall likewise be applicable to such portion of District "C".
 4. *Side yards.* There shall be a side yard on each side of a building used exclusively for residential purposes, not less than five (5) feet in width.
 5. Frontage for every building or structure used for residential purposes shall be not less than sixty (60) feet, along the City street right-of-way.
 6. *Lot area per family.* Every building or portion of building erected, moved or altered for residential purposes in District "C" after August 8, 1961, shall provide a lot area of not less than one thousand (1,000) square feet per family.
 7. The above restrictions shall not apply to buildings or structures used for commercial purposes.

ARTICLE IV-A

District "LC" – Light Commercial Business District

Section 400.095. Use Regulations. [R.O. 2012 §400.095; Ord. No. A-6474, 3-13-1997]

- A. In District "LC" (Light Commercial Business District), no building, structure, land or premises shall be used, and no building or structure shall be erected, moved, constructed or altered, except for one (1) or more of the following uses:
1. Advertising signs.
 2. Any use permitted in District "B".
 3. Churches, other places of worship, parish houses, Sunday schools, but excluding overnight shelters.

4. Community centers, non-profit.
5. Governmental buildings and uses.
6. Offices, administrative, business, finance and professional.
7. Personal service establishments such as beauty shops, barber shops, dry cleaning and laundry pick-up, shoe repair, laundromats, mailing offices, hearing aid or eye glass shops.
8. Police and fire stations.
9. Printshops, photocopying establishments.
10. Public and private parks, golf courses, playgrounds, excluding miniature golf courses and driving ranges.
11. Residential uses associated with individual permitted light commercial uses.
12. Restaurants, excluding drive-in or pick-up facilities.
13. Retail establishment uses such as bakery, books, candy, dairy products, drugs, groceries, flowers, gifts, jewelry, hobby materials, meat, fish and poultry, newsstands, wearing apparel, shoes, clothing, toys, pipe and tobacco products, and video rental.
14. Banks and financial institutions with a maximum of two (2) teller stations or lanes.
15. Convenience stores with gas pumps.
16. Schools and studios for art, dancing, drama, music and photography.

Section 400.096. Height and Area Regulations. [R.O. 2012 §400.096; Ord. No. A-6474, 3-13-1997]

- A. In District "C", the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows:
 1. *Height.* Same as District "B".
 2. *Rear yard.* The depth of the rear yard shall be not less than twenty percent (20%) of the depth of the lot; provided, that such depth need not be more than twenty (20) feet.
 3. *Front yard.* The front yard need be of no greater depth than the least depth established in existing buildings in District "C" within the same block; except, that where a portion of a District "C" lies within the same block and fronts upon the same street with a portion of District "A" or "B", and no lot within such District "C" is occupied by a building with a front yard of less depth than that required in that portion of District "A" or "B" adjoining, the front yard requirements of such adjoining District "A" or "B" shall likewise be applicable to such portion of District "C".
 4. *Side yards.* There shall be a side yard in each side of a building used exclusively for residential purposes, not less than five (5) feet in width.
 5. *Lot area per family.* Every building or portion of building erected, moved or altered for residential purposes in District "C" after August 8, 1961, shall provide a lot area

of not less than one thousand (1,000) square feet per family.

6. The above restrictions shall not apply to buildings or structures used for commercial purposes.

ARTICLE IV-B
District "O" – Office District

Section 400.097. Use Regulations. [R.O. 2012 §400.097; Ord. No. 7741, 4-3-2007]

- A. In District "O" (Office District), no building, structure, land or premises shall be used and no building or structure shall be erected, moved, constructed or altered except for one (1) or more of the following uses:
 1. Offices, such as public or private administrative, business, professional, financial, medical or dental offices.
 2. Retail and personal service uses associated with and inside the same office building, such as newsstands, barbershops, beauty shops, shoe shops, small restaurants, etc., under the following restrictions:
 - a. Total floor area of associated uses shall not exceed ten percent (10%) of total office building.
 - b. Advertising signs or directories shall be limited to interior signs inside the building or exterior signs no more than twenty-five (25) square feet in size attached to the building. Freestanding exterior signs are not allowed.
 3. Any use permitted in District "B" – Multi-Family Residential.
 4. Governmental buildings and uses such as Police stations, fire stations and associated buildings and structures.
 5. Churches, parish halls, rectories, museums, art galleries, libraries, laboratories, research facilities, public parks and playgrounds.
 6. New "O" Office Districts must adjoin local business (Commercial) "C" zones, light commercial "LC" zones, industrial "D" zones or light industrial "LD" zones.
- B. *Conditions Of Use.*
 1. Exterior lighting shall be directed away from any adjacent residential areas.
 2. New parking lots, refuse storage areas and mechanical equipment areas shall be screened from adjacent residential areas with landscaping of solid board fencing and barrier plantings of evergreen shrubbery.

Section 400.098. Height and Area Regulations. [R.O. 2012 §400.098; Ord. No. 7741, 4-3-2007]

In District "O", the height of buildings, the minimum dimensions of lots and yards, the minimum lot area, the minimum frontage and the minimum garage areas permitted upon any lot used for residential purposes shall be the same as in District "B". The above restrictions shall only apply to buildings and structures used for residential purposes.

ARTICLE V
District "D" – Industrial District ³

Section 400.100. Use Regulations. [R.O. 2012 §400.100; CC 1979 §32-11; Ord. No A-1867 §7, 2-22-84; Ord. No. A-3646 §1, 3-19-1976; Ord. No. 7875 §§1 – 2, 8-20-2008]

- A. In District "D", no building, structure, land or premises shall be used, and no building or structure shall be erected, moved, constructed or altered, except for one (1) or more of the following uses:
1. Any use permitted in District "C" except for residential dwelling units. [Ord. No. 8361 §1, 7-20-2015]
 2. (Reserved)⁴
 3. Awning manufacture.
 4. Basket material factories.
 5. Billboards and advertising signs, provided that such billboards or signs shall not be located on the public right-of-way, in water or sewer main easements or within five (5) feet horizontally from any overhead primary power lines. Signs that would be considered by the City to be a potential hazard to traffic visibility shall be pole-mounted and shall be elevated not less than six (6) feet so as not to cause a traffic visibility hazard. Any encroachments into the public right-of-way shall comply with the ICC International Building Code, as amended.
 6. Blacksmith shops.
 7. Bottling works.
 8. Bowling alleys, dance halls, skating rinks and similar commercial recreation buildings.
 9. Breweries or distilleries.
 10. Button or novelty factories.
 11. Canning and preserving factories.
 12. Chemical laboratories.
 13. Cleaning, pressing and dyeing establishments.
 14. Coal, coke or wood yards.
 15. Cold storage plants.

3. Editor's Note: Ord. No. 8361 §3, 6-20-2015, set out that the lawful use of a residential dwelling unit in District "D" or District "LD" existing on June 1, 2015, may be continued, although such use does not conform with the provisions of this Chapter, and such use may be extended throughout the building; provided, that no structural alterations, except those required by law or ordinance, are made therein; provided further, that no extension shall be made, except by special permit from the Board of Zoning Adjustment in case of evident hardship.

4. Editor's Note: Former Subsection (A)(2) which related to automobile and metal salvage yards as uses in the Industrial District was repealed 10-20-2016 by §1 of Ord. No. 8478.

16. Contractor's plant or storage yard.
17. Creameries.
18. Electroplating works.
19. Flour mills, feed mills and grain processing.
20. Foundries.
21. Freight terminals.
22. Grain elevators.
23. Ice plants.
24. Laundries, employing more than five (5) persons each.
25. Lumber yards.
26. Lumber mills.
27. Machine shops.
28. Manufacture of products, such as artificial flowers; blacking; brooms and brushes; canvas products; cigars; cleaning preparations; clothing; electrical fixtures; ice or ice cream; jewelry; leather products; medicine; metal products; musical instruments; optical goods; paper products; plumes; polishing preparations; professional instruments; shell products; syrup products; or wooden products.
29. Manufacture of products to be sold at retail upon the premises; provided, that such use is not noxious or offensive by reason of the emission of vibration, smoke, dust, gas or noise.
30. Metal stamping, shearing or fabricating plants.
31. Milk bottling or distribution stations.
32. Monument or marble works.
33. Oil compounding or barrelling.
34. Plumbing and sheet metal shops.
35. Poultry storage, dressing or killing and fish packing or storing.
36. Produce markets.
37. Public stables.
38. Sales rooms and yards for farm machinery, contractors' equipment and similar equipment.
39. Storage in bulk of, or warehouse for, such materials as household goods, clothing, drugs, glass, dry goods, furniture, hardware, lubricating oil, millinery, paint and paint material, pipe, rubber, shop supplies, tobaccos, turpentine or varnish.

40. Storage in bulk or warehouses for such materials as brick, cement, coal, contractors' supplies, cotton, feed, fertilizer, grain, gravel, grease, groceries, hay, ice, iron, lead, lime, lumber, machinery, oil, petroleum, plaster, roofing, rope, sandstone, terra cotta, timber, wood and wool.
 41. Veterinary hospitals.
 42. Wholesale houses.
 43. Wholesale sales rooms.
 44. Any retail use or business may be established; provided, that its use is not obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
 45. Manufacture of any similar character to that listed in this Section, including drugs and chemicals or the use of any building or premises not included in special clauses; provided, that such manufacture or use is not noxious or offensive by reason of the emission of odor, dust, vibration, smoke, gas or noise.
 46. Accessory uses customarily incident to any of the above uses.
 47. Medical Marijuana-Infused Products Manufacturing Facility, entirely within an enclosed building. [Ord. No. 8683, 7-1-2019]
 48. Medical Marijuana Testing Facility, entirely within an enclosed building. [Ord. No. 8683, 7-1-2019]
 49. Medical Marijuana Cultivation Facility, entirely within an enclosed building. [Ord. No. 8683, 7-1-2019]
- B. Buildings or structures used for Medical Marijuana-Infused Products Manufacturing Facilities, Medical Marijuana Testing Facilities, and Medical Marijuana Cultivation Facilities shall be located at least one thousand (1,000) feet from any school, church or day care facility. The prohibited distance shall be measured in the manner described in rules and regulations promulgated by the Department of Health and Senior Services. If a school, church or day care facility is established within the prohibited distance following construction or opening of a conforming medical marijuana facility, the medical marijuana business may remain at that location as a permitted use. [Ord. No. 8683, 7-1-2019]

Section 400.110. Height and Area Regulations. [R.O. 2012 §400.110; CC 1979 §32-12; Ord. No. A-1867 §7, 2-22-1984; Ord. No. A-6432 §3, 1-31-1997]

- A. In District "D", the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot used for residential purposes shall be as follows:
1. *Height.* No building shall exceed four (4) stories or fifty-five (55) feet in height.
 2. *Rear yard.* For buildings or portions of buildings used for residential purposes, a rear yard of not less than fifteen (15) feet shall be provided. No rear yard is required on other buildings.
 3. *Side yards.* There shall be a side yard on each side of a building used exclusively for

residential purposes, of not less than five (5) feet in width; provided, that this width shall be increased one (1) inch for each foot of height of such building above thirty-five (35) feet.

4. *Lot area per family.* Every building or portion of a building erected, moved or altered for residential purposes in District "D" after August 8, 1961, shall provide a lot area of not less than four hundred (400) square feet per family.
5. Frontage for every building or structure used for residential purposes shall be not less than sixty (60) feet, along the City street right-of-way.

ARTICLE V-A

District "LD" – Light Industrial District ⁵

Section 400.115. Use Regulations. [R.O. 2012 §400.115; Ord. No. A-6475, 3-13-1997]

- A. In District "LD" (Light Industrial District), no building, structure, land or premises shall be used, and no building or structure shall be erected, moved, constructed or altered, except for one (1) or more of the following uses:
 1. Any use permitted in Districts "C" and "LC" except for residential dwelling units. [Ord. No. 8361 §2, 7-20-2015]
 2. Light manufacturing, fabrication, assembling and warehousing of products, and associated service operations, to include but not be limited to business machines, cloth or leather products, medical appliances, musical instruments, beverages, novelties, optical and photographic equipment, pharmaceutical and plastic products.
 3. Establishments that furnish services and/or supplies primarily to commercial or industrial customers, such as janitorial services, sign shops, packaging, shipping, locksmithing, printing, engraving, or publishing.
 4. Heating and plumbing sales and service.
 5. Pest control services.
 6. Recording studios.
 7. Retail sales of products produced by the principal use.
 8. Self-service storage facilities.
 9. Television and radio studios and transmitting towers.
 10. Veterinary clinics, animal hospitals, and kennels, with no outside activities.
 11. Warehouses, storage and distribution centers.
 12. Billboards and advertising signs.

5. Editor's Note: Ord. No. 8361 §3, 6-20-2015, set out that the lawful use of a residential dwelling unit in District "D" or District "LD" existing on June 1, 2015, may be continued, although such use does not conform with the provisions of this Chapter, and such use may be extended throughout the building; provided, that no structural alterations, except those required by law or ordinance, are made therein; provided further, that no extension shall be made, except by special permit from the Board of Zoning Adjustment in case of evident hardship.

- B. All operations and all material storage shall be inside a building with no discernible external smoke, noise, dust, vibration, gas, or any other impact or effect.

Section 400.116. Height and Area Regulations. [R.O. 2012 §400.116; Ord. No. A-6475, 3-13-1997]

- A. In District "LD", the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot used for residential purposes shall be as follows:
1. *Height.* No building shall exceed four (4) stories or fifty-five (55) feet in height.
 2. *Rear yard.* For buildings or portions of buildings used for residential purposes, a rear yard of not less than fifteen (15) feet shall be provided. No rear yard is required on other buildings.
 3. *Side yards.* There shall be a side yard on each side of a building used exclusively for residential purposes, of not less than five (5) feet in width; provided, that this width shall be increased one (1) inch for each foot of height of such building above thirty-five (35) feet.
 4. *Lot area per family.* Every building or portion of a building erected, moved or altered for residential purposes in District "D" after August 8, 1961, shall provide a lot area of not less than four hundred (400) square feet per family.

ARTICLE VI

Exceptions and Modifications To District Regulations

Section 400.120. Special Classes of Uses Permitted By Special Permit. [R.O. 2012 §400.120; CC 1979 §32-13; Ord. No. A-1867 §8, 2-22-1984; Ord. No. 8650, 2-20-2019]

- A. The following uses may be located in the following districts, as indicated, by special permission of the Zoning and Planning Commission, after personal notice to all landowners within eight hundred (800) feet of the proposed use, followed by a public hearing; provided that, in their judgment, such use will not seriously injure the appropriate use of neighboring property and will conform to the general intent and purpose of this Chapter; provided further, that such uses shall comply with the height and area regulations of the districts in which they may be located:
1. Amusement parks (Districts "C" or "D").
 2. Cemeteries (Districts "C" or "D").
 3. Circuses and carnivals (Districts "C" or "D").
 4. Crematories for the disposal of the human dead (District "D").
 5. Hospitals for the insane or feeble-minded, or penal or correctional institutions (District "D").
 6. Light and power plants (District "D").
 7. Refuse dumps (District "D").

8. Sewage or garbage disposal plants (District "D").
9. Stone cutting (District "C").
10. Stone quarries (District "D").
11. Slaughter of animals (District "D").
12. Stockyards and feeding pens (District "D").
13. Storage in bulk of combustible and hazardous materials; provided, that there shall be no storage of gasoline and liquid fuel petroleum and like materials within one hundred fifty (150) feet of any lot line, unless such storage is surrounded by a dike of sufficient size and design to contain such hazardous material (D).
14. Small wireless facilities (see Article XI, Chapter 400).

Section 400.130. Toilet and Sewage Disposal Requirements. [R.O. 2012 §400.130; CC 1979 §32-14; Ord. No. A-1867 §9, 2-22-1984]

The erection, construction or use of any building after August 8, 1961, as an outdoor toilet is forbidden, and every principal building erected, constructed, moved or altered in any District after such date shall contain an inside bathroom, including a toilet, which shall be connected to either the public sewer system of the City or a private or community septic tank constructed according to the standards of the Department of Natural Resources and the International Private Sewage Disposal Code. If a private septic tank shall be used, it shall, in no case, be of less capacity than five hundred (500) gallons and shall have attached not less than one hundred fifty (150) feet of lateral drainage. In District "A", no residence which will use a private septic tank shall be constructed on a lot smaller than fifteen thousand (15,000) square feet.

Section 400.140. Existing Manufacturing Plants. [R.O. 2012 §400.140; CC 1979 §32-15; Ord. No. A-1867 §15, 2-22-1984]

Manufacturing plants in operation in the City on August 8, 1961, regardless of the classification into which the district in which they are located may be placed, shall not be prevented from expanding their plants or buildings onto adjacent property for the purpose of continuing the character of manufacturing in which they are engaged on such date, nor shall they be prevented from making alterations or structural changes necessitated by their business; provided, that the additions, alterations or structural changes meet the requirements as to materials established for District "C". Such manufacturing plants shall not, however, be permitted to change their operation in such a manner as to render them materially more noxious or offensive by reason of vibration, noise or emission of odor, dust, smoke or gas, without becoming liable to the provisions outlined for special classes in Section 400.120.

Section 400.150. Plats of New Additions. [R.O. 2012 §400.150; CC 1979 §32-16; Ord. No. A-1867 §11, 2-22-1984]

When plats of new additions are submitted to the City Council for their approval prior to being accepted by the City, such plats shall first be submitted to the Zoning and Planning Commission for approval and a statement that they meet the requirements of this Chapter. Such plats shall

provide lots of such size as to meet the requirements of the particular Zoning District in which they are located and shall provide for streets and alleys as required for the particular Zoning District in which they are located, or if alleys are not provided, satisfactory utility easements for electric lines, telephone lines, water mains, gas mains and sewer mains shall be required. Such streets and alleys shall, if practicable, be extensions and continuations of streets and alleys in adjoining prior platted additions, but not more narrow than the streets of which they are continuations. No exceptions shall be permitted, without approval by six (6) of the eight (8) members of the Zoning and Planning Commission.

Section 400.160. Non-Conforming Uses – Generally. [R.O. 2012 §400.160; CC 1979 §32-17; Ord. No. A-1867 §12, 2-22-1984]

- A. The lawful use of land existing on August 8, 1961, although such use does not conform to the provisions of this Chapter, may be continued, but if such non-conforming use is discontinued, any future use of such premises shall be in conformity with the provisions of this Chapter.
- B. The lawful use of a building existing on August 8, 1961, may be continued, although such use does not conform with the provisions of this Chapter, and such use may be extended throughout the building; provided, that no structural alterations, except those required by law or ordinance, are made therein; provided further, that no extension shall be made, except by special permit from the Board of Zoning Adjustment in case of evident hardship. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification.
- C. A non-conforming use, if changed to a conforming use or more restricted non-conforming use, may not thereafter be changed back to a less restricted use than that to which it was changed.

Section 400.170. Non-Conforming Uses – Certificate of Occupancy. [R.O. 2012 §400.170; CC 1979 §32-18; Ord. No. A-1867 §13, 2-22-1984]

A certificate of occupancy shall be required for all non-conforming uses. Application for such certificate of occupancy shall be filed within twelve (12) months from August 8, 1961, accompanied by affidavits of proof that such non-conforming use was not established in violation of this Chapter. Subsequent to one (1) year from August 8, 1961, no use shall be made of any premises for any authorized non-conforming use in the absence of such certificate. Such certificate shall be issued by the Board of Adjustment.

Section 400.180. Completion, Restoration or Extension of Existing Buildings. [R.O. 2012 §400.180; CC 1979 §32-19; Ord. No. A-1867 §14, 2-22-1984]

- A. Nothing contained in this Chapter shall require any change in the plans, construction or designated use of a building, the construction of which shall have been commenced prior to August 8, 1961, and the completion of which shall be effected within one (1) year of such date.
- B. Nothing in this Chapter shall prevent the restoration of a non-conforming building partly destroyed by fire, explosion, act of God or act of the public enemy subsequent to August 8,

1961, or prevent continuance of the use of such building, or part thereof, as such use extended at the time of such destruction of such building or part thereof, or prevent a change of such existing use, under the limitations provided in this Chapter; provided that such building is not destroyed to the extent of more than seventy-five percent (75%) of the reasonable valuation thereof. This Chapter shall prevent the restoration of such non-conforming building so damaged to the extent of more than seventy-five percent (75%) of the reasonable valuation thereof, the continuance of the use of such building or part thereof as such use existed at the time of such damage and a change of such existing use under the limitations provided by this Chapter.

- C. The provisions of this Chapter shall not apply to prevent the extension of any building existing in any district on August 8, 1961, to the heights which the walls, foundation and framework of such existing building originally were intended, designed and constructed to carry; provided, that the actual construction of the extension in height permitted by this Subsection shall have been duly commenced within ten (10) years from August 8, 1961.

Section 400.190. Off-Street Parking and Loading. [R.O. 2012 §400.190; CC 1979 §32-20; Ord. No. A-1867 §1, 2-22-1984; Ord. No. A-7028, 3-30-2001; Ord. No. 8162 §§1 – 2, 11-20-2012]

- A. In all districts except District "A", First Residential (Single-Family) District, in connection with every use, sufficient off-street parking spaces shall be provided to accomplish the principles set forth in this Section and to meet the parking demands generated by residents, employees, company officials, company vehicles, and customers. Required parking spaces shall be located on the lot on which the principal use is located except as provided in this Section.
- B. Each application for a building permit, zoning permit or variance shall include therewith a plot plan, drawn to scale, showing the off-street parking, loading facilities, and vehicular use areas to be provided to comply with the requirements of this section. Said plan shall include appropriate entrances and exits, information as to the location and dimensions of off-street parking spaces and the means of access to the spaces. Neither the Zoning Inspector nor the City Council shall approve any application until it is determined that such plans meet the requirements of this section. [Ord. No. 8361 §4, 6-20-2015]
- C. Each parking space shall contain an area of not less than one hundred eighty (180) square feet nor be less than nine (9) feet wide by twenty (20) feet long, measured perpendicularly to the side of the parking space, exclusive of access and circulation aisles. Areas normally used for drive-in customer service such as drive-in windows and gas pump service areas shall not be counted as required parking spaces.
- D. Every off-street parking and vehicular use area shall be paved with an all-weather material composed of an asphalt or concrete surface except within Districts "D" and "LD", crushed stone or gravel may be permitted for an industrial use unless the property is located adjacent to one of the following residential districts: "A", "B", "MD" or "MH". [Ord. No. 8361 §4, 6-20-2015]
- E. Every multiple dwelling erected, constructed, reconstructed or altered in District "B" after March 1, 1984, shall provide at least one (1) off-street parking space for each dwelling unit. Such off-street parking facilities shall be on the same lot or parcel of land as the building

they are intended to serve.

- F. Any business or industrial building, hospital, institution or hotel erected, constructed, reconstructed or altered in any district after March 1, 1984, shall provide adequate off-street facilities for the loading and unloading of merchandise and goods within or adjacent to the building, in such a manner as not to obstruct freedom of traffic movement on the public streets or alleys.
- G. Any industrial or manufacturing building erected, constructed or reconstructed after March 1, 1984, shall provide accessible off-street parking for motor vehicles, at the rate of one (1) parking space for each four hundred (400) square feet of floor space within the building. Such parking space shall be on the same lot with the main building, or within eight hundred (800) feet therefrom, on land zoned for business or industry.
- H. All hospitals and all philanthropic, eleemosynary or school buildings erected, constructed or reconstructed after March 1, 1984, shall provide off-street parking or garage space at the rate of one (1) parking space for each five hundred (500) square feet of floor space within the building. Such parking shall be either on the premises or within one thousand (1,000) feet of the building.
- I. For every structure or part thereof erected, converted or structurally altered after March 1, 1984, to be used as a theater, auditorium, stadium or other place of public assembly, there shall be provided and maintained accessible off-street parking space for the storage of motor vehicles, on the basis of one (1) vehicle for each five (5) seats of the total audience seating capacity of the building, structure or part thereof. Such parking shall be located on the same lot with such building, structure or part thereof, or within five hundred (500) feet thereof.
- J. *When Required Off-Street Parking Facilities Are Provided Elsewhere Than On The Same Lot Or Parcel Of Land As The Principal Use They Are Intended To Serve.*
 - 1. They shall be in the same possession, either by deed or long term lease as the property occupied by such principal use, and proof of such deed or lease shall be filed on request with the Zoning Inspector or the City Council. Except private off-street parking lots are not required for customers of restaurants where both:
 - a. On-street public parking is already provided, and
 - b. A City of Monett municipal public parking lot is already provided within nine hundred (900) feet.
 - 2. The distance between said lot or parcel and the location of the off-street parking facilities shall be measured between the nearest point of the off-street parking facilities and the nearest point of the lots where the principal use is carried on.
- K. Every warehouse or industrial storage building erected, constructed or reconstructed shall provide adequate off-street parking at the rate of three (3) parking spaces for each structure, plus one (1) parking space for each employee employed therein, or for each eight hundred (800) square feet of floor space within the building, whichever is greater. Such off-street parking facilities shall be on the same lot or parcel of land as the building they are intended to serve.

- L. Every business or office building erected, constructed or reconstructed shall provide adequate off-street parking at the rate of one (1) parking space for each two hundred (200) square feet of floor space within the building structure. Such parking space shall be on the same lot with the main building or within two hundred (200) feet thereof.
- M. Every restaurant, cafe, or tavern building erected, constructed or reconstructed shall provide adequate off-street parking space at the rate of one (1) parking space for each three (3) seats of seating capacity of the building structure or part thereof, or each one hundred (100) square feet of floor space within the building, whichever is greater. Such parking shall be located on the same lot with such building structure or within two hundred (200) feet thereof.
- N. Every hotel or motel building erected, constructed or reconstructed shall provide adequate off-street parking space at the rate of one (1) parking space for each guest room, plus any required for restaurants and assembly areas. Such off-street parking facilities shall be on the same lot or parcel of land as the building they are intended to serve.

ARTICLE VII

Administration and Enforcement

Section 400.200. Notice of Proposed Construction, Moving of Building or Structural Changes – Appointment of Zoning Inspector – Inspections and Permits. [R.O. 2012 §400.200; CC 1979 §32-21; Ord. No. A-1867 §16, 2-22-1984]

- A. In order to facilitate enforcement of the provisions of this Chapter, notice of any proposed new construction, moving a building or structural changes which will result in extension of the exterior walls of any structure shall be given the City Clerk on forms supplied by the City Clerk, in the form designated by the City Council. This form shall be designed so as to furnish information which will indicate compliance or non-compliance with this Chapter and shall include a rough plot plan indicating distances from the boundary lines. Such notice shall be given not less than ten (10) days prior to the start of such construction or movement.
- B. The City Council shall appoint a Zoning Inspector, who shall be furnished a copy of such notice and who shall make an inspection of the property to ascertain that the proposed construction or movement will not violate provisions of this Chapter and issue a permit to the owner of the property if he/she finds that such construction or movement will not violate this Chapter. Such initial inspection shall be made not more than ten (10) days after receipt of such notice by the City Clerk, and a copy of the permit issued shall be forwarded to the Board of Adjustment within twenty-four (24) hours after it is issued.
- C. No new construction or structural changes shall be commenced, and no building shall be moved, until the permit required by this Section has been issued.
- D. The Zoning Inspector shall also inspect the property subsequent to completion of construction or movement and report compliance or non-compliance to the Board of Adjustment not more than thirty (30) days after such completion of construction or movement.
- E. The City Clerk shall furnish to the Board of Adjustment a copy of all original notices of

construction, movement or structural changes at the next regular meeting of that body after any such notice has been made.

- F. The City Council shall establish such inspection fees as it deems necessary to cover the cost of the inspection.

Section 400.210. Amendments, Modifications, Etc., of Chapter or District Boundaries – Generally. [R.O. 2012 §400.210; CC 1979 §32-22; Ord. No. A-1867 §17, 2-22-1984]

The City Council may, from time to time, on its own motion or on petition, after public notice, hold hearings on, as provided in this Article and may amend, supplement, change, modify or repeal the classifications, regulations and restrictions as established in this Article, and may change, restrict or extend the boundaries of the various districts established herein. Before taking any action upon any proposed amendment, modifications, change, restriction or extension, the same shall be referred by the Council to the Zoning and Planning Commission for report and recommendation.

Section 400.220. Amendments – Protest By Property Owners. [R.O. 2012 §400.220; CC 1979 §32-23; Ord. No. A-1867 §18, 2-22-1984]

If a protest against any such amendment, change, modification, repeal, restriction or extension as provided in Section 400.210 shall be presented, duly signed and acknowledged by the owners of thirty percent (30%) or more, either of the land exclusive of streets and alleys, included in such proposed change, or within an area determined by lines drawn parallel to and one hundred eighty- five (185) feet distant from the boundaries of the district proposed to be changed, such amendment shall not be passed, except by two-thirds (2/3) vote of the Council.

Section 400.230. Amendments – Public Hearing – Notice of Hearing. [R.O. 2012 §400.230; CC 1979 §32-24; Ord. No. A-1867 §19, 2-22-1984]

No action on an amendment, change, modification or repeal shall be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in the City.

Section 400.240. Powers and Duties Generally of Zoning Inspector. [R.O. 2012 §400.240; CC 1979 §32-25; Ord. No. A-1867 §20, 2-22-1984]

It shall be the duty of the Zoning Inspector to enforce the provisions of this Chapter, and he/she is hereby authorized and instructed to arrest, prosecute or bring any proceedings in a proper Court in the name of the City against any person violating any of the terms of this Chapter. 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 Zoning Inspector is hereby authorized and directed to institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, construction, reconstruction, alteration, repair, conversion or use, to restrain, correct or abate such violation and to prevent any illegal act, conduct or use on or about such premises.

Section 400.250. Board of Adjustment. ⁶ [R.O. 2012 §400.250; CC 1979 §32-26; Ord. No. A-1867 §21, 2-22-1984]

- A. *Established.* A Board of Adjustment is hereby established in accordance with the provisions of State law regarding the zoning of cities. The word "Board", when used in this Chapter, shall be construed to mean the Board of Adjustment.
- B. *Composition – Terms – Removal Of Members – Vacancies – Election Of Chairman – Appointment To Board Of Members Of Zoning And Planning Commission.* The Board shall consist of five (5) members, who shall be residents, to be appointed by the City Council, not more than two (2) of whom shall reside in any one City Ward. Membership of the first (1st) Board appointed shall serve, respectively, one (1) for one (1) year; one (1) for two (2) years; one (1) for three (3) years; one (1) for four (4) years; and one (1) for five (5) years; thereafter, members shall be appointed for terms of five (5) years each. Members shall be removable for cause, upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board shall elect its own Chairman, who shall serve for one (1) year. Members of the Zoning and Planning Commission may also be appointed and serve on the Board of Adjustment.
- C. *Rules – Meetings – Chairman To Administer Oaths, Etc. – Minutes And Records – Quorum.* The Board shall adopt rules in accordance with the provisions of this Chapter. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman or in his/her 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 keep the minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall 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 four (4) members shall be necessary to constitute a quorum.
- D. *Appeals – Generally.* Appeals to the Board may be taken by any person, any neighborhood organization as defined in Section 32.105, RSMo., representing such person, aggrieved by any decision of the Zoning Inspector or any Administrator Officer of the City. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Zoning Inspector or Administrator Officer from whom the appeal is taken, and with the Board, a notice of the appeal, specifying the grounds thereof. The Zoning Inspector or Administrator Officer from whom the appeal was taken shall forthwith transmit to the Board all the papers constituting the records upon which the action appealed from was taken. Service of such notices, papers and records shall be constituted by depositing the same with the City Clerk.
- E. *Appeals – Stay Of Proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies 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 and notice to the

6. Cross Reference – As to duty of persons petitioning board of adjustment to pay for publication of notice of public hearing, §400.270.

officer from whom the appeal is taken and on due cause shown.

- F. *Appeals – Notices – Hearing.* The Board shall give not less than five (5) days public notice for the hearing of the appeal, as well as notice to the parties in interest, and thereafter decide the same within a reasonable time. Upon the hearing, any party may appear, in person, by agent or by attorney. In addition to the notice provided in this Section, the Board shall cause a notice to be posted upon the premises which are the subject of the appeal, the substance of which shall be that a hearing is to be held before the Board of Adjustment on a date specified concerning such premises, and directing all persons interested therein to appear before the Board and make their objections, if any, known.
- G. *Powers Generally.* The Board shall have the following powers:
1. To hear and decide appeals, where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of this Chapter.
 2. To hear and decide all matters referred to it or upon which such Board is required to pass under this Chapter.
 3. In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.
 4. To determine, in cases of uncertainty, the classification of any use not specifically enumerated in this Chapter.

Section 400.260. Appeals To Circuit Court. [R.O. 2012 §400.260; CC 1979 §32-27; Ord. No. A-1867 §22, 2-22-1984]

Any person aggrieved by any decision of the Board of Adjustment, any neighborhood organization as defined in Section 32.105, RSMo., representing such person, or any Officer, Department, Board or Bureau, may present to the Circuit Court of Barry or Lawrence County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and 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 or the City Clerk. Upon the presentation of such petition, the Court may allow a writ of certiorari directed to the Board, to review such decision of the Board, 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 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 hearing, it shall appear to the Court that testimony

is necessary for the proper disposition of the matter, it may take additional evidence as it may direct 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 the determination of the Court shall be made. The Court may reverse or affirm, wholly or partially, 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.

Section 400.270. Persons Petitioning Zoning and Planning Commission or Board of Adjustment To Pay For Publication of Notice of Public Hearing. ⁷ [R.O. 2012 §400.270; CC 1979 §2-2; Ord. No. A-1899 §§1 – 3, 3-9-1962; Ord. No. A-7098, 10-26-2001; Ord. No. 7593 §1, 8-22-2005]

- A. Any person petitioning the Zoning and Planning Commission for an alteration, change or amendment in Chapter 400 of this Code or other zoning regulations of the City, and any person petitioning the Board of Adjustment for a decision of such Board, as provided and required in this Code or other ordinances of the City, shall pay the cost of the required publication of notice of the public hearing to be held by the Zoning and Planning Commission or Board of Adjustment.
- B. Any person petitioning the Zoning and Planning Commission or Board of Adjustment shall, before publication of such notice, deposit with the City's Collection Clerk a sum estimated by the City to be sufficient to pay the cost of such publication. Such deposit shall be applied upon the cost of such publication and the balance, if any, refunded to the depositor thereof. In the event such deposit is not sufficient to pay such cost, such petitioner shall, upon demand, pay the balance thereof to the City.
- C. The person requesting variances, modifications, exemptions or other changes to this Chapter shall pay all publication costs, notification costs and other costs incurred by the City of Monett.

ARTICLE VIII
Zoning and Planning Commission

Section 400.280. Created – Composition – Terms. [R.O. 2012 §400.280; CC 1979 §2-118; Ord. No. A-2278 §1, 9-13-1965]

- A. The Zoning and Planning Commission of the City shall consist of not more than fifteen (15) nor less than seven (7) members, including:
 - 1. The Mayor, if the Mayor chooses to be a member;
 - 2. A member of the Council selected by the Council, if the Council chooses to have a member serve on the Commission; and
 - 3. Not more than fifteen (15) nor less than five (5) citizens appointed by the Mayor and approved by the Council. All citizen members of the Commission shall serve without compensation. The term of each of the citizen members shall be for four (4) years, except that the terms of the citizen members first appointed shall be for varying

7. Cross Reference – As to board of adjustment generally, §400.250.

periods so that succeeding terms will be staggered. Any vacancy in a membership shall be filled for the unexpired term by appointment as aforesaid. The Council may remove any citizen member for cause stated in writing and after public hearing.

- B. The term of office on the Zoning and Planning Commission for the Mayor shall be for his/her term as such Mayor; the term of office on the Zoning and Planning Commission for the City Engineer shall be for his/her employment as City Engineer; and the term of office on the Zoning and Planning Commission for the member of the City Council shall be until another member is selected by the City Council. The term of office of each of the citizen members of the Zoning and Planning Commission shall be for four (4) years; provided, that of the first (1st) members of the Zoning and Planning Commission, one (1) shall serve for one (1) year, one (1) shall serve for two (2) years, one (1) shall serve for three (3) years and two (2) shall serve for four (4) years.

Section 400.290. Functions, Powers and Duties Generally. [R.O. 2012 §400.290; CC 1979 §2-119; Ord. No. A-2278 §3, 9-13-1965]

The Zoning and Planning Commission shall have and perform all of the functions, powers and duties provided for such Commission by State law or by the City Council acting pursuant to State law.

ARTICLE IX Violation and Penalty

Section 400.300. Violations – Penalties.

- 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 municipality, 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 an ordinance violation punishable by a fine of not less than ten dollars (\$10.00) and not more than two hundred fifty dollars (\$250.00) for each and every day that such violation continues, 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. Notwithstanding the provisions of Section 82.300, RSMo., for the second (2nd) and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) 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).

Section 400.310. through Section 400.390. (Reserved)

**ARTICLE X
Mobile Food Trucks And Vending**

Section 400.400. Purpose. [Ord. No. 8593, 5-21-2018]

The purpose of this Article is to preserve and promote the health, safety and general welfare of the public. Promoting compatibility among land uses with the community through regulations intended to minimize the harmful or nuisance effects resulting from noise, location, and other objectionable activities associated with the mobile food vending industry.

Section 400.410. Definitions. [Ord. No. 8593, 5-21-2018]

For the purposes of the regulations set out in this Article, the following terms shall have the following definitions:

MOBILE FOOD TRUCK — A licensed motorized vehicle that includes a self-contained or attached trailer kitchen in which food is prepared, processed, or stored and such vehicle is used to sell and dispense food to the general public.

MOBILE FOOD TRUCK VENDING — An individual providing for the preparation and sale of food with the use of a traveling cooking equipment use for vending. Approved equipment includes motorized food trucks, tow behind trailers and cooking equipment that can be erected under a tent on a temporary basis.

Section 400.420. Food Permit. [Ord. No. 8593, 5-21-2018]

Mobile food trucks shall have a valid County Health Department Food Permit and are subject to comply with the Health Code and all rules and regulations pertaining to an operating permit.

Section 400.430. Use Standards. [Ord. No. 8593, 5-21-2018]

- A. A person operating a mobile food truck on private property shall be allowed subject to the following regulations:

1. Locate on an approved hard surface that is at least one hundred (100) feet from the door of a lawfully established eating place unless the owner of the eating place provides a letter of consent, a copy of which shall be kept within the food truck.
2. Any auxiliary power required for the operation of the mobile food truck shall be self-contained. No use of public or private power source is allowed without providing written consent from the owner and approved by the City of Monett utility office.
3. All materials generated from a mobile food business that are to be disposed of should be disposed of properly. It is illegal to discharge or dispose of any substance, material, food, or waste into the storm drain system.
4. All grounds utilized by a mobile food truck shall at all times be maintained in a clean and attractive manner. Trash and recycling containers shall be provided for use by the mobile food truck patrons. All trash or debris accumulating within twenty (20) feet of any mobile operation shall be collected by the vendor and deposited into a trash container.
5. Mobile food trucks shall not be allowed to offer indoor seating to the public.
6. Water Supply. The water supply shall be adequate, of a safe, sanitary quality and from an approved source. Hot and cold running water under pressure shall be provided in all areas where food is prepared or equipment, utensils or containers are washed. Water, if not piped into the establishment, shall be transported and stored in containers approved by the County Health Department and shall be handled and dispensed in a sanitary manner.
7. Sewage Disposal. All sewage shall be disposed of in a public sewer system or in the absence thereof, in a manner approved by the County Health Department.
8. Toilet Facilities. Each food service vendor that has an approved County Health Department Operating Permit for a permanent fixed location shall be provided with adequate conveniently located toilet facilities for its employees. Toilet facilities are to be of a sanitary design not to exceed five hundred (500) feet of travel distance from the employee's regular working area to the facilities and connected to a public water and sewer system.

Section 400.440. Location And Placement Requirements. [Ord. No. 8593, 5-21-2018]

- A. Must be on private property and located within the following: Zone C Local Business, Zone LC Light Commercial, Zone D Industrial or Zone LD Light Industrial.
- B. Operations are only allowed on private property, subject to written approval from the property owner. Written approval must be present on the mobile food truck and available upon request.
- C. Off-Street Parking and Loading. Parking is only allowed on an approved hard surface as provided in Section 400.190. Parking is not allowed on grass or other landscaped areas.
- D. Mobile food trucks must be parked so that neither the vehicle nor the customers block driveways or existing buildings or uses, or in such a manner as to create a traffic hazard.

- E. No mobile food truck shall interfere with the internal parking lot circulation.
- F. Mobile food trucks shall not occupy any handicap accessible parking space.
- G. Mobile food trucks shall not use the public right-of-way unless permitted by ordinance or resolution.

Section 400.450. Permit Required. [Ord. No. 8593, 5-21-2018]

- A. Permits shall be required as follows:
 - 1. No mobile food truck or mobile food vending operator shall operate within the boundaries of the City of Monett without first obtaining a business license.
 - 2. A permit and current County Health Department inspection shall be obtained and maintained by the owner of the mobile food truck.
 - 3. All City and County permitting and inspections must be displayed on the mobile food truck in a place visible by customers.

Section 400.460. Mobile Food Truck Operations. [Ord. No. 8593, 5-21-2018]

- A. Mobile food trucks, such as ice cream trucks, shall be allowed to sell merchandise on the public right-of-way under the following conditions:
 - 1. The operator does not stop on the public right-of-way for a period longer than five (5) minutes.
 - 2. The operator does not impede the flow of traffic.
 - 3. The operator complies with Chapter 300 of the Municipal Traffic Code.

ARTICLE XI
Wireless Communications Facilities

Section 400.470. Purpose. [Ord. No. 8650, 2-20-2019]

- A. Statement Of Purpose. The general purpose of this Article XI ("Article") is to regulate the placement, construction, and modification of telecommunications wireless communications facilities to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City of Monett. Specifically, this Article is intended to:
 - 1. Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of the City of Monett;
 - 2. Minimize adverse visual impacts of wireless communications facilities through careful design, siting, landscape screening, and innovative camouflaging techniques that provide predictability for nearby property owners and others that future uses will not materially alter such approved aesthetic protections without zoning hearing procedures and input from interested parties;

3. Ensure that any new wireless communications facilities are located in an area compatible with the neighborhood or surrounding community to the extent possible; and
 4. Ensure that regulation of wireless communications facilities does not have the effect of prohibiting the provision of personal wireless services and does not unreasonably discriminate among functionally equivalent providers of such service and promotes the provision and availability of communication services within the City.
- B. **Applicability; Preemption.** Notwithstanding any ordinance to the contrary, the procedures set forth in this Article shall be applicable to all wireless communications facilities existing or installed, built or modified after the effective date of this Article to the fullest extent permitted by law. No provision of this Article shall apply to any circumstance in which such application shall be unlawful under superseding Federal or State law, and furthermore, if any Section, Subsection, sentence, clause, phrase, or portion of this Article is now or in the future superseded or preempted by State or Federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

Section 400.480. Definitions. [Ord. No. 8650, 2-20-2019]

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

AGL (ABOVE GROUND LEVEL) — Ground level shall be determined by the average elevation of the natural ground level within a radius of fifty (50) feet from the center location of measurement.

ANTENNA — Any device that transmits and/or receives wireless radio waves for voice, data, or video communications purposes, including, but not limited to, television, AM/FM radio, texts, microwave, cellular telephone, and similar forms of communications. The term shall exclude satellite earth station antenna less than two (2) meters in diameter [mounted within twelve (12) feet of the ground or building-mounted] and any receive-only home television antenna.

AUTHORITY POLE — A utility pole that is owned and/or operated by the City but shall not include municipal electric utility distribution poles or facilities.

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

DIRECTOR — The Zoning Inspector or his/her designee or official acting in such capacity.

DISGUISED SUPPORT STRUCTURE — Any free-standing, man-made structure designed for the support of antennas, the presence of which is camouflaged or concealed as an appropriately placed and designed architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure. Such structures may include but are not limited to clock towers, campaniles, observation towers, light standards, flag poles, and artificial trees. For purposes of this definition, a structure "camouflaged or concealed as an appropriately placed and designed architectural or

natural feature" shall mean:

1. It is consistent with and contributes to and does not detract from the character and property values and use of the area and neighborhood in which it is located;
2. It does not contain distorted proportions, size, or other features not typically found on the type of structure or feature to which it is designed to replicate;
3. It cannot be identified as a support structure by persons with reasonable sensibilities and knowledge;
4. Its equipment, accessory buildings, or other aspects or attachments relating to the disguised support structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated; and
5. It is of a height, design, and type that would ordinarily occur at the location and neighborhood selected.

EXISTING STRUCTURE — Any structure capable of supporting wireless communications facilities (other than a support structure) in full conformance with the design and other requirements of this Article and is:

1. Existing prior to the date of all applicable permit applications seeking City authorization for installation of such facilities thereon; and
2. Not built or installed in anticipation of such specific installation or erected as a means to evade approvals applicable to a non-existing structure.

FAA — The Federal Aviation Administration.

FAST-TRACK SMALL WIRELESS FACILITY or FAST-TRACK — A small wireless facility that meets the following requirements for an antenna and associated equipment:

1. No more than seven (7) cubic feet in volume [comprised of no more than twenty-seven (27) square feet of exterior surface area, excluding the surface width equal to the width of the existing structure or utility pole to which it is mounted, on an imaginary enclosure around the perimeter thereof, excluding cable or cable conduit of four (4) inches or less]. Volume shall be the measure of the exterior displacement of the antenna and associated equipment;
2. Located with the consent of the owner on an existing structure or utility pole, or concealed within or on a replacement utility pole if the appearance is not materially altered and the existing structure or utility pole is no more than five (5) feet taller;
3. Not exceeding six (6) feet above the top of an existing structure or utility pole for a total height not exceeding forty-five (45) feet [nor taller than more than six (6) feet above the average of similar poles within three hundred (300) feet].

FCC — The Federal Communications Commission.

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

INCIDENTAL USE — Any use authorized herein that exists in addition to the principal use of the property.

MODIFICATION — Any addition, deletion, or change, including the addition or replacement of antennas, or any change to a structure requiring a building permit or other governmental approval.

SHELTER — A building for the protection and security of communications equipment associated with one (1) or more antennas 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 antenna is prohibited.

SMALL WIRELESS FACILITY — An antenna and associated equipment that meets the following:

1. An antenna of no more than six (6) cubic feet in volume; and
2. All other associated equipment, to the extent permitted by applicable law to be calculated, of cumulatively no more than twenty-eight (28) cubic feet in volume; provided that no single piece of equipment on the utility pole shall exceed nine (9) cubic feet in volume, and no single piece of ground-mounted equipment shall exceed fifteen (15) cubic feet in volume.

SUPPORT STRUCTURE — A tower or disguised support structure.

TOWER — A structure designed for the support of one (1) or more antennas and including guyed towers, self-supporting (lattice) towers, or monopoles, but not disguised support structures, utility poles, or buildings. The term shall also not include any support structure that includes attachments of sixty-five (65) feet or less in height owned and operated solely for use by an amateur radio operator licensed by the FCC.

UTILITY POLE — A pole that is or may be used for wireline communications, lighting, traffic control, signage, or a similar function, which may also support a small wireless facility or fast-track.

WIRELESS COMMUNICATIONS FACILITY — Any antenna, small wireless facility, "fast-track," cabinet, shelter, and support structure, and associated equipment.

Section 400.490. Application Procedures; Timing. [Ord. No. 8650, 2-20-2019]

- A. **Applications.** Applications for permitted, administrative, or special uses pursuant to this Article shall be subject to the supplementary procedures in this Article. Applications shall be submitted to the City as a complete application on forms provided by the City. A complete application shall be an application submitted on the forms provided by the City, fully executed by the applicant, identifying the specific approval sought, and containing all attachments, fees as may be established to reimburse the City for its inspection and review costs, and information as required thereon or by the City, consistent with this Article. Applications shall be accompanied by a building permit application and other applicable forms.
- B. **Proof Of Owner Consent.** Applications for permitted, administrative, or special uses

pursuant to this Article shall be required to provide proof of landlord consent, which shall minimally include:

1. Written consent to pursue the application by all fee simple owners of the underlying real estate (or where located in street right-of-way, the right-of-way owner thereof), including when the proposed location is also in a utility easement; and
 2. Written consent to pursue the application of the owner of the structure on which such facility is to be placed, if different than the applicant.
- C. Timing. Applications shall be decided upon within a reasonable time, subject further to State or Federal specific additional time requirements as may apply to the particular application.

Section 400.500. General Requirements. [Ord. No. 8650, 2-20-2019]

- A. Applicability. The requirements set forth in this Article shall be applicable to all wireless communications facilities within the City installed, built, or modified after the effective date of this Article to the full extent permitted by law. Such zoning review and approvals required in this Article shall be in addition to any other generally applicable permitting requirement, including applicable building, excavation, or other right-of-way permits.
1. Principal Or Incidental Use. Towers may be either a principal or incidental use in all commercial and industrial zoning districts, subject to any applicable requirement relating to yard or setback. An incidental use subject to a leasehold interest of a person other than the lot owner may be approved for a tower only if the leasehold area separately meets all requirements for a separate subdivided lot, including dedicated access, parking, setbacks, and lot size, applicable to a primary use in the district in which the use is proposed as if it was a separate subdivided lot. No other district shall allow towers unless required by law. All other wireless facilities other than towers may be a principal or incidental use in all districts subject to the requirements herein.
 2. Building Codes, Safety Standards, And Zoning Compliance. Wireless communications facilities shall be constructed and maintained in compliance with all standards contained in applicable State and local building codes. A certified engineer's set of plans and a structural report shall be required for all applications to construct a new or modify, or any way alter, a support structure, a utility pole, or antenna, including small wireless facility and fast-track, unless waived upon application to the Director stating why such report and plans are unnecessary to the specific application and a determination in the discretion of the Director approving such statement. In addition to any other approvals required by this Article, no wireless communications facility or portion thereof shall be erected, replaced, or expanded prior to receipt of a certificate of zoning compliance, unless otherwise required by law, and the issuance of a building permit. For sites within the City right-of-way:
 - a. The most restrictive adjacent underlying zoning district classification shall apply unless otherwise specifically zoned and designated on the Official Zoning

Map;

- b. No application shall be submitted for permit approval without attaching the City's consent to use the right-of-way for the specific construction application, to the extent permitted by applicable law;
 - c. Wireless communications facilities shall be installed and maintained as not to obstruct or hinder the usual travel or public safety on the right-of-way or obstruct the legal use of such right-of-way by authorities or authorized right-of-way users; and
 - d. Such use shall be required to obtain applicable permits and comply with the City's ROW management rules and regulations set forth in Chapter 510.⁸
3. Regulatory Compliance. All wireless communications facilities shall meet or exceed current standards and regulations of the FAA, FCC, and any other local, State, or Federal agency with the authority to regulate wireless communications facilities, and including all required licenses, permits, and taxes applicable to such structure and/or modification. Should such standards or regulations be amended, then the owner shall bring such devices and structures into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction, or modification of any wireless communications facilities permitted by this Article shall be granted for any applicant having an uncured violation of this Article, any zoning regulation regarding the lot on which the structure is proposed, or any other governmental regulatory, licensing, or tax requirement applicable to such wireless communications facilities within the City unless preempted by applicable law.
4. Security. All wireless communications facilities shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build, alter, or modify wireless communications facilities. Additional measures may be required as a condition of the issuance of a building permit as deemed necessary by the Director or by the City Council in the case of a special use permit.
5. Lighting. Antennas, small wireless facilities, fast-track, 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, alter, or modify the antenna, small wireless facilities, fast-track, or support structure. Lighting may also be approved as a consistent component of a disguised support structure. Equipment cabinets and shelters may have lighting only as approved by the Director or City Council on the approved site plan.
6. Advertising. Except for a disguised support structure in the form of an otherwise lawfully permitted sign, the placement of advertising on wireless communications facilities is prohibited other than identification signage or required safety signage of

8. Editor's Note: See Ch. 510, Streets, Sidewalks and Gutters.

not greater than one (1) square foot on ground equipment.

7. Design.

- a. Color. Subject to the requirements of the FAA or any applicable State or Federal agency, wireless communications facilities and attachments shall be painted a neutral color consistent with the natural or built environment of the site or an alternative painting scheme approved by the Director, or the City Council in the case of special use permits, consistent with the requirements of this Article. Unpainted galvanized steel support structures are not permitted.
- b. Ground Equipment. When authorized, equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located. All equipment shall be either placed underground, contained in a single shelter or cabinet, or wholly concealed within a building or approved walled compound.
- c. Antenna Design. Antennas attached to a disguised support structure or tower shall be contained within the disguised support structure or within or mounted flush on the surface of the tower to which they are mounted. Antennas attached to an existing building, utility pole, or structure shall be of a color identical to the surface to which they are mounted. Antennas on the rooftop or attached to a building shall be screened or constructed and/or colored to match the structure to which they are attached. All antennas shall be designed to be disguised and maximally concealed on or within the support structure, or other structure. Exposed antennas on a crow's nest or other visible platforms or extensions are prohibited.
- d. Height. Support structures and antennas shall be no taller than necessary and shall not exceed the height limitation of any airport overlay zone as may be adopted by the City or other regulatory agency. Support structures may exceed underlying zoning district height restrictions for buildings and structures only where shown to be necessary, provided that no reasonable alternative exists. To the extent permitted by applicable law, district height restrictions shall be considered by the City in determining the appropriateness of the design and location of the application under the applicable standards for approval. No support structure shall be approved at a height exceeding one hundred twenty (120) feet AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system.
- e. Monopole Design. All towers shall be of a monopole design. Lattice, guyed towers, or other non-monopole tower designs shall not be permitted.
- f. Compound Walls/Landscaping. All towers shall be surrounded by a minimum of a six-foot-high, decorative wall constructed of brick, stone, or comparable masonry materials and a landscape strip of not less than ten (10) feet in width and planted with materials which will provide a visual barrier to a minimum height of six (6) feet. The landscape strip shall be exterior to any security wall.

In lieu of the required wall and landscape strip, an alternative means of screening may be approved by the Director, or by the City Council in the case of a special use permit, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved. Landscaping or other improvements may be required for disguised support structures if needed to implement an approved disguise.

- g. **Setbacks.** All support structures, including any portions of any wireless communications facilities thereon and associated structures, fences, and walls (except for parking associated with the wireless communications facility) shall be separated from any public right-of-way, sidewalk or street, alley, parking area, playground, or other building, and from the property line of any adjacent property at least a horizontal distance equal to the height of the support structure, including any portions of any wireless communications facilities thereon, whichever is greater.
 - h. **Storage.** Vehicle or outdoor storage on any wireless communications facilities site is prohibited, unless otherwise permitted by the zoning district.
 - i. **Parking.** On-site parking for periodic maintenance and service shall be provided at all support structure locations consistent with the underlying zoning district and the type of antenna or support structure approval granted.
 - j. **Decorative Poles.** In districts where there are utility poles that were specifically designed for their aesthetic nature and compatibility with the built environment of that district, as determined by the City, such utility poles shall be deemed to be decorative utility poles. Such decorative utility poles, when authorized to be replaced by an applicant for wireless communications facilities pursuant to applicable law and in compliance with this Article and Code, shall only be replaced with a substantially similar decorative utility pole which matches the aesthetics and decorative elements of the original decorative utility pole being replaced. Such replacement expenses shall be borne wholly by the applicant seeking to place wireless communications facilities on such decorative utility pole.
8. **Public Property.** Wireless communications facilities located on property owned, leased, or otherwise controlled by the City shall be subject to the requirements of this Article. A license or lease with the City authorizing the location of such wireless communications facilities shall be required for each site.
9. **As-Built Plans.** Within sixty (60) days of completion of the initial construction and any additional construction, two (2) complete sets of plans drawn to scale and certified as accurately depicting the location of all wireless communications facilities constructed shall be furnished to the City.
10. **Historic Preservation; Thirty-Day Hearing Period.** To the extent permitted by law, approval shall not be issued for any wireless communications facility that the Director or City Council determines would create a significant negative visual impact or otherwise have a significant negative impact on the historical character and quality of

any property within a Historic Preservation District or such district as a whole. For co-location of any certified historic structure as defined in Section 253.545, RSMo., in addition to all other applicable time requirements, there shall be a thirty-day time period before approval of an application during which one (1) or more public hearings on co-location to a certified historic structure are held. The City may require reasonable, technically feasible and technological neutral design and concealment measures as a condition of approval of a wireless communications facility within a historic district or upon a historic structure.

- B. Administration. The Director shall have the authority to establish forms and procedures consistent with this Article and applicable Federal, State, and local law to ensure compliance and to facilitate prompt review and administration of applications.

Section 400.510. Permitted Use. [Ord. No. 8650, 2-20-2019]

- A. Permitted Use. The placement of wireless communications facilities fully conforming with the general requirements in this Article are permitted in all zoning districts only as follows:

1. Co-locations On Existing Support Structures. The attachment of additional or replacement complying antennas or equipment to any existing fully conforming support structure or as otherwise authorized by State or Federal law where local zoning is preempted, provided that building permit requirements, national safety codes, and other applicable codes, including recognized accepted industry standards for structural, safety, capacity, reliability, and engineering are satisfied, including specifically the requirement to submit a certified structural engineering report as provided in Section 400.500.
2. Antennas On High-Voltage Towers. The mounting of antennas on or within any existing high-voltage electric transmission tower, but not exceeding the height of such tower by more than ten (10) feet, provided that all requirements of this Article and the underlying zoning ordinance are met, except minimum setbacks provided in this Article shall not apply.
3. Antennas On Existing Buildings/Structures. In all districts, except not on single-family residential or two-family dwellings, the mounting of antennas on any existing and conforming building or structure (other than a support structure or utility pole), provided that the presence of the antenna and equipment is concealed by architectural elements or fully camouflaged or concealed by painting a color identical to the surface to which they are attached, and further provided that all requirements of this Article and the underlying zoning ordinance are met.
4. Co-location Of Small Wireless Facilities On Authority Poles.
 - a. In accordance with Section 67.5112, RSMo., a wireless provider may co-locate small wireless facilities and install, maintain, modify, operate, and replace authority poles at heights below the height limitations outlined in this Subsection, which shall be a permitted use in all districts except single-family residential and historic districts, provided the proposed installation does not:
 - (1) Materially interfere with the safe operation of traffic and control

equipment or City-owned communications equipment;

- (2) Materially interfere with compliance with the Americans with Disabilities Act,⁹ or similar Federal or State standards regarding pedestrian access or movement;
- (3) Materially obstruct or hinder the usual travel or public safety on the rights-of-way;
- (4) Materially obstruct the legal use of the rights-of-way by the City, utility, or other third party;
- (5) Fail to comply with the spacing requirements within Chapter 510;¹⁰
- (6) Fail to comply with applicable national safety codes, including recognized engineering standards for utility poles or support structures;
- (7) Fail to comply with the decorative pole replacement requirements herein;
- (8) Fail to comply with undergrounding requirements within Chapter 510; or
- (9) Interfere or impair the operation of existing utility facilities, or City or third-party attachments.

b. New, replacement, or modification of utility poles under the following circumstances shall not be considered a permitted use under this Section:

- (1) Proposals to construct or modify a utility pole which exceeds the greater of:
 - (a) Fifty (50) feet AGL; or
 - (b) More than ten (10) feet above the tallest existing utility pole as of January 1, 2019, within five hundred (500) feet of the proposed utility pole in the City; and
- (2) Proposals to co-locate on an existing utility pole in place on August 28, 2018, which exceeds the height of the existing utility pole by more than ten (10) feet.

B. Application Procedure. Application for a permitted use under this Section shall require submission of an application with proof of owner consent as required by Section 400.490 and an application fee of five hundred dollars (\$500.00) as required to partly cover the City's actual costs, but not to exceed such amounts as may be limited by law. If the applicant is not a wireless services provider, then the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the City that the proposed site(s) will become operational and used by a wireless services provider within one (1) year of the permit's issuance date. For any application for a small wireless facility, the applicant shall provide an attestation that the

9. Editor's Note: See 42 U.S.C. § 12101 et seq.

10. Editor's Note: See Ch. 510, Streets, Sidewalks and Gutters.

proposed small wireless facility complies with the volumetric limitations as required to meet the definition of a small wireless facility in accordance with this Article and pursuant to applicable law. The applicant shall also submit a certified structural analysis as required in the general requirements of this Article. Applications requesting any information that is prohibited by Federal or State law under the applicable circumstance shall be deemed inapplicable to the subject application. The Director shall issue a decision on the application for a permitted use within the time frame permitted by applicable law. A decision to deny an application shall be made in writing and state the specific reasons for the denial.

Section 400.520. Administrative Approval. [Ord. No. 8650, 2-20-2019]

A. Administrative Approval. The placement of wireless communications facilities fully conforming with the general requirements in this Article are permitted in all zoning districts by administrative permit approved by the Director only as follows:

1. Disguised Support Structures. The construction of a disguised support structure, provided that all related equipment shall be placed underground or concealed within the structure. Equipment may be placed in an appropriately concealed cabinet if the disguised support structure is incidental to an industrial, commercial, or other non-residential use and fits with the natural built environment or the disguised support structure. Any disguised support structure shall have as a condition of approval, unless expressly exempted in the approval, an obligation and corresponding covenant recorded on the property that runs with the land to the benefit of the City on behalf of the public, prohibiting modifications to the disguised support structure that eliminate or are materially detrimental to the disguise, unless such proposed modification is approved by a duly authorized zoning or special use approval approved. If the applicant does not wish to have such a covenant, the application shall not qualify for administrative permit approval, unless another mechanism is proposed and approved to ensure that the disguise is not subsequently eliminated or materially detrimentally altered. A disguised support structure proposed to be located within a public or private right-of-way, street, or other pedestrian or vehicular way may be exempted from the general requirements of this Article relating to parking/access and setbacks, unless determined by the Director as applicable to the specific location for safety reasons or other applicable reasons.
2. Fast-Track Small Wireless Facilities.
 - a. An application for a fast-track small wireless facility may be approved administratively by the Director, subject to meeting the following requirements:
 - (1) General Requirements. The following requirements shall generally apply to all fast-track small wireless facilities located within the City:
 - (a) The fast-track shall substantially match any current aesthetic or ornamental elements of the existing structure or utility pole, or otherwise be designed to maximally blend in to the built environment, with attention to the current uses within the district at the proposed site;

- (b) Any portion above the existing structure or utility pole shall be concealed and of the same dimensions and appearance so as to appear to be a natural extension of the existing structure or utility pole in lieu of an enclosure or concealment;
- (c) The fast-track equipment shall not emit noise audible from the building line of any residentially zoned or used property; and
- (d) Location, placement, and orientation of the fast-track shall, to the extent feasible, minimize the obstruction to, or visibility from, the closest adjacent properties unless otherwise required by the City for safety reasons.

(2) Additional Requirements When Sited Near Pedestrian And Vehicle Ways. When a fast-track is proposed to be located on an existing structure or utility pole on or adjacent to public or private streets, sidewalks, or other pedestrian or vehicle ways:

- (a) Only one (1) fast-track shall be permitted per structure or utility pole in the rights-of-way, which may be waived by the Director upon good cause shown;
- (b) The height of all portions of the fast-track shall be located at least eight (8) feet above ground level;
- (c) No ground equipment shall be permitted; and
- (d) No portions of the fast-track shall extend horizontally from the surface of the utility pole or existing structure more than sixteen (16) inches.

(3) Waiver For Good Cause Shown. Additionally, the Director may for good cause shown increase any one or more of the maximum volumetric specifications from the definition of a fast-track by up to fifty percent (50%) if the applicant demonstrates that it:

- (a) Does not in any location nationally use equipment capable of meeting the specifications and the purpose of the equipment; and
- (b) Cannot feasibly meet the requirements as defined and described.

b. The City Council may further waive one (1) or more of the requirements found in the definition of "fast-track," or from Subsection (A)(2)(a)(1), General Requirements, or Subsection (A)(2)(a)(2), Additional Requirements When Sited Near Pedestrian And Vehicle Ways, of this Section, upon good cause shown by the applicant, and provided a showing that the waiver is the minimum necessary to accomplish the purposes of this Article. The burden of proof for any waiver shall be wholly on the applicant and must be shown by clear and convincing evidence.

B. Application Procedures. Applications for administrative permits shall be made on the appropriate forms to the Director consistent with the requirements of this Article.

Applications requesting any information that is prohibited by Federal or State law under the applicable circumstance shall be deemed inapplicable to the subject application.

1. General Application Requirements. The applicant shall submit along with its completed application form:
 - a. An application fee of five hundred dollars (\$500.00) as required to partly cover the City's actual costs, but not to exceed such amounts as may be limited by law; any amount not used by the City shall be refunded to the applicant upon written request after a final decision;
 - b. A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating the exact location of the facility, all dimensions and orientations of the facility and associated equipment, in addition to all existing and proposed improvements, including buildings, drives, walkways, parking areas, and other structures, public rights-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, hydrologic features, and the coordinates and height AGL of the utility pole, or existing structure, if applicable;
 - c. Specifications, dimensions, photos, or drawings of the completed installation;
 - d. Proof of owner consent as required by Section 400.490.
 - e. Certified structural analysis as required in the general requirements of this Article;
 - f. If the applicant is not a wireless services provider, then the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the City that the proposed site(s) will become operational and used by a wireless services provider within one (1) year of the permit's issuance date; and
 - g. All other information necessary to show compliance with the applicable requirements of this Article.
2. Fast-Track-Specific Application Requirements. In addition to the above general application requirements, applications for a fast-track shall include the following:
 - a. An attestation that the proposed fast-track meets the volumetric and other requirements to meet the definition of "fast-track" provided in this Article; and
 - b. Information demonstrating that the applicant's proposed plans are in compliance with § 67.5113.3(9), RSMo., to the satisfaction of the City.
3. Review. The application shall be reviewed by the Director to determine compliance with the above standards, including specifically design, location, safety, and appearance requirements and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.
4. Additional Information May Be Required. In reviewing an application, the Director

may require the applicant to provide additional information, including technical studies, to the extent permitted by applicable law. An application shall not be deemed complete until satisfaction of all application requirements and submission of all requested information as provided herein.

5. Decisions; Denials Required In Writing. The Director shall issue a decision on the permit within the time frame permitted by applicable law. The Director may deny the application or approve the application as submitted or with such modifications or conditions as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens and property values consistent with and to effect the purposes of this Article. The Director may consider the purposes of this Article and the factors established herein for granting a special 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.

Section 400.530. Special Use Permit Required. [Ord. No. 8650, 2-20-2019]

- A. Special Use Permit Required. All proposals to construct or modify a wireless communications facility not permitted by Section 400.510 (Permitted Use) or Section 400.520 (Administrative Approval) or not fully complying with the general requirements of this Article shall be permitted only upon the approval of a special use permit authorized consistent with Section 400.120 following a duly advertised public hearing by the Zoning and Planning Commission and City Council, subject to the following additional requirements, procedures, and limitations:
 1. Applications. Applications for special use permits shall be filed on such forms required by the Director and processed subject to the requirements of and in the manner established by applicable law, herein, and for special use permits in the Zoning Code and, in addition to such other requirements, shall be accompanied by a deposit of one thousand five hundred dollars (\$1,500.00), to the extent permitted by applicable law to the specific wireless communications facility. Any amount not used by the City shall be refunded to the applicant upon written request after a final decision. Except as otherwise provided by law, no application for a special use permit under this Section shall be deemed complete until the applicant has paid all fees and deposits required under this Article, submitted certified engineering plans, and provided proof of owner consent as required by Section 400.490. Applications requesting any information that is prohibited by Federal or State law under the applicable circumstance shall be deemed inapplicable to the subject application.
 2. Decision And Findings Required. A decision shall be contemporaneously accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be under oath and may be submitted with the application or thereafter or presented during the public hearing by the applicant or others.
 3. Additional Minimum Requirements. No special use permit shall be issued unless the applicant has clearly demonstrated by substantial evidence that placement of wireless communications facilities pursuant to Section 400.510 (Permitted Use) or Section

400.520 (Administrative Approval) of this Article is not technologically or economically feasible. The City may consider current or emerging industry standards and practices, among other information, in determining feasibility.

4. Findings Required. In addition to the determinations or limitations specified herein and by the applicable provisions of Section 400.120 of this Zoning Code for the consideration of special use permits, no special use permit shall be approved by the City Council unless findings in the affirmative are made that the following conditions exist:
 - a. That the design of the wireless communications facilities, including ground layout, maximally reduces visual degradation and otherwise complies with provisions and intent of this Article;
 - b. That the design is visually compatible with the area, will not distract from the view of the surrounding area, is maximally concealed or blended in with the environment, and will not adversely affect property values;
 - c. That such special use shall not be inconsistent or adversely affect the regular permitted uses in the district in which the same is located; and
 - d. That the proposal fully complies with applicable law, including the general requirements herein; provided that an exception to the general requirements, other than building or safety code compliance, may be approved upon evidence that compliance is not feasible or is shown to be unreasonable under the specific circumstances shown.

Section 400.540. Commercial Operation Of Unlawful Wireless Communications Facilities. [Ord. No. 8650, 2-20-2019]

Notwithstanding any right that may exist for a governmental entity to operate or construct wireless communications facilities, it shall be unlawful for any person to erect or operate for any private commercial purpose any wireless communications facilities in violation of any provision of this Article, regardless of whether such wireless communications facilities are located on land owned by a governmental entity.

Section 400.550. Removal Of Support Structure. [Ord. No. 8650, 2-20-2019]

Any wireless communications facility or portion thereof that is no longer in use for its original communications purpose shall be removed at the owner's expense. In the case of multiple operators sharing use of a single support structure, this provision shall not become effective until all users cease operations.

Section 400.560. Violations And Penalties. [Ord. No. 8650, 2-20-2019]

Except as may otherwise be provided by law, any person violating any provision in this Article shall be subject to Section 100.080.

Section 400.570. Appeals. [Ord. No. 8650, 2-20-2019]

The procedures of Section 400.250 shall govern appeals by any aggrieved person of a final action of any City Officer, employee, board, commission, or the City Council that are claimed by an aggrieved person to be unlawful or an unconstitutional taking of property without compensation. To the fullest extent permitted by law, the review procedures of Section 400.250 shall be exhausted before any action may be filed in any court against the City or its officers, employees, boards, officials or commissions. Nothing herein shall be deemed to unlawfully limit any remedy that is required to be available as a matter of law.