

Bill NO. 92-1

Ordinance No. 93-1

Introduced by: Tony Kooyumjian

AN ORDINANCE ESTABLISHING
ZONING DISTRICTS AND OTHER REGULATIONS
RESPECTING THE USE OF LAND WITHIN THE
TOWN OF AUGUSTA, AND ESTABLISHING A
BOARD OF ADJUSTMENT TO REVIEW DECISIONS
RESPECTING SAID REGULATIONS

BE IT ORDAINED by the Board of Trustees of the town of Augusta that:

Section I - Purpose

1.010. The zoning regulations set forth herein are enacted to implement the land-use plan for the town of Augusta and to promote the health, safety, morals, and general welfare of the citizens of the town of Augusta. These regulations are intended to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage service, schools, parks, and other public requirements, and to recognize and preserve the unique historic character of the town of Augusta, all as hereinafter set forth.

1.020 Authority. The provisions set forth in these regulations have been prepared in accordance with the authority granted by the legislature of the State of Massier as provided by Sections 89.010 - 89.250 of the Revised Statutes of Missouri.

1.030 Applicability. These regulations shall apply to all land within the Augusta corporate limits. These regulations shall also apply to any land added to the corporate area after such land shall have been legally annexed.

1.040 Definitions.

1. For the purposes of these regulations, certain terms or words used herein shall be interpreted as follows:

a. The word shall is mandatory , the word may is permissive.

b. The word lot includes the words plot and parcel.

2. For the purposes of these regulations, the following terms or words are defined as follows:

a. Accessory use. A use which is customarily incidental to the principal use, e.g., a garage for the storage of an automobile by the occupant.

b. Area. This term refers to the amount of land surface in a lot, plot, or parcel.

c. Area requirements. The yard, lot area, lot width, lot coverage, and parking requirements as set forth in each specific district.

d. Bed and Breakfast. An establishment providing overnight lodging and meals having no more than four guest rooms.

(e1) Any Place of Business that has Retail sales of any fuel for a motorized vehicle by gas pumps or other devices

e. Dwelling unit. A structure or portion thereof which provides complete housekeeping facilities for one family.

f. Historic site. A premises held open to the public, or to specific segments of the public, by reason of the historical significance of the premises, and offering for sale no goods or services.

g. Home occupation. An accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small nameplate, and in connection therewith there is not involved the keeping, storing or maintaining of an inventory, equipment or machinery; there is no commodity sold upon or from the premises; no more than one person is employed, other than a member of the immediate family residing on the premises; no mechanical equipment is used except such as is normally used for purely domestic or household purposes and no commercial vehicle in connection with home occupation is stored or parked except within a fully enclosed and closed private garage, or otherwise in conformity with this ordinance. The office of a physician, surgeon, dentist or other professional person, including an instructor in violin, piano or other individual musical instrument limited to a single pupil at a time, who offers skilled services to clients, and is not professionally engaged in the purchase or sale of economic goods,

shall be deemed to be Home Occupations so long as they are within the requirements herein set forth.

h. Lot. A tract of land defined by metes, bounds or boundary lines in a recorded deed or on a recorded plat.

i. Lot of record. A lot which is part of a subdivision recorded in the office of the county recorder, or a lot, plot, or parcel described by metes and bounds, the description of which had been so recorded before the effective date of these regulations.

j. Mobile home. A single-family dwelling unit that has the following characteristics:

1) Designed for long-term occupancy containing sleeping accommodations, flush toilet, tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

2) Designed to be transported after fabrication on its own wheels, flat bed, other trailers, or detachable wheels.

3) Arrives at site where it is to be occupied as a dwelling unit ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

k. Non-conforming use. An existing lawful use which would but for the saving provisions of this ordinance and the constitutions of this state and the United States, become unlawful because of the adoption of this ordinance or any amendment hereto.

l. Parking space. An on-lot space available for the parking of one motor vehicle and having an area of not less than 200 square feet, exclusive of space necessary to provide access to a street.

m. Property Line. The line bounding a lot as defined herein. Synonymous with "Lot Line."

n. Residential structure. A structure containing one or more dwelling units. A mobile home shall be considered a residential structure when located in a residential district and must meet all requirements for a residential structure.

o. Structure. Anything constructed or erected with a fixed location on the ground, or attached to something with a fixed location on the ground. Among other things, structures include buildings, walks, fences, and billboards.

p. Winery. A facility for the fermentation of wine or the fermentation and sale of wine fermented only on the premises.

q. Yard. A horizontal distance from a lot line to a parallel designated line. A yard is an open space extending the full distance of the lot.

1.050 Zoning map.

1. The city is hereby divided into zoning districts as shown on the Official Zoning Districts Map which, together with explanatory information thereon, is hereby adopted by reference and declared to be a part of these regulations.

2. The Official Zoning Districts Map shall be identified

by the signature of the Chairman of the Board of Trustees attested by the city clerk, and shall bear the seal to the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Ordinance Number 93-_____ of the Town of Augusta," together with the date of adoption of the ordinance.

1.060 Application of zoning district regulations.

1. The regulations pertaining to each zoning district establish the character of the zoning district, and shall be applied uniformly within the zoning district.

2. The uses permitted in each zoning district shall be limited to those uses enumerated as being permitted, and no building or structure or part thereof shall hereafter be used, erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the zoning district in which it is located, provided that the Board of Trustees shall be authorized to grant applications for conditional uses as hereinafter set forth in Section VII.

1.070 Interpretation of district boundaries. When uncertainty exists with respect to the boundaries of districts as shown on the Official Zoning Map the following rules shall apply:

1. District boundary lines are intended to be concurrent with the center-lines of streets, alleys, easements, other rights-of-way, and creeks, streams, and other water channels.

2. District boundary lines are intended to be concurrent with property lines.

3. In the absence of specific distances such dimensions shall be determined by the scale of the official map.

Section II

District Regulations

In the following established districts, premises shall be used only for the purposes specifically enumerated with respect to each district and each use shall be subject to the regulations, requirements and restrictions regarding building heights, minimum yards, lot areas, parking and loading spaces set forth with respect to each district.

2.010 F-P FLOOD PLAIN DISTRICT

1. Permitted Uses:

(a) Agriculture, including farming, dairy farming, livestock and poultry raising, forestry and all other uses commonly classified as agricultural, with no restrictions as to operation of such vehicles and machinery as are customarily incidental to such agricultural uses, with no restrictions on the sale or marketing of products raised on the premises;

(b) Forest and wildlife reservations or small conservation uses.

(c) Public park or playground.

(d) Historic Site.

2. Conditional Uses:

(a) Railroad or utility rights-of-way or facilities or plants, including substations or pumping stations for electrical, water and sewage treatment and telephone utilities.

(b) Radio, television or microwave towers, provided that the distance from the center of the base of the tower to the nearest property line shall not be less than the height of the tower plus 25 feet. One permanent building containing transmitting equipment shall be permitted as an accessory use.

(c) Privately operated recreational facilities including lakes, swimming pools, tennis courts, riding stables and golf courses.

(d) Private clubs.

(e) Logging operations, sawmills, and mill storage of lumber, not including any fabrication of timber structures.

(f) Rental and repair of boats and boating supplies.

(g) Airports and landing fields.

(h) Height of structure in excess of the maximum height.

3. Height, Area and Lot Requirements;

Maximum building height - 35 feet.

Minimum front yard - 50 feet.

4. Parking, Loading and Sign Regulations

See Sections III and IV.

2.020 A-1 AGRICULTURAL DISTRICTS

1. Permitted Uses

(a) Agriculture, including farming, dairy farming, livestock and poultry raising, forestry and all other uses commonly classified as agricultural with no restrictions as to operation of such vehicles and machinery as are customarily incidental to such agricultural uses, with no restrictions on the sale or marketing of products raised on the premises; provided that no feed lot, feeding floor or structure for housing of livestock or poultry shall be permitted within 1,000 feet of any property line unless the same shall be designed so as to provide for the housing or feeding of no more than one animal or three birds for each acre within the tract, in which case, such facility may be located no less than 100 feet from a boundary line on a lot containing less than 6 acres, and 200 feet from a boundary line on a tract of 6 acres or more.

(b) Forest and wildlife reservations or small conservation uses.

(c) Public park or playground.

(d) Non-residential public building or facility erected by a governmental agency.

(e) Golf course and clubhouse, except miniature course or driving range operated for commercial purposes.

(f) Single-family residences.

(g) Cemetery.

(h) Historic Site.

2. Conditional Uses

(a) Apiaries, aviaries, fish hatcheries and fur farming or the raising of fur-bearing animals.

(b) Kennels, provided that buildings and pens are at least 200 feet from property lines.

(c) Privately operated recreational facility including lakes, swimming pools, tennis courts or riding stables.

(d) Railroad and utility rights-of-way and facilities, including substations or pumping stations for electrical, water, gas and telephone utilities.

(e) Sewage treatment plants, oxidation basins and related facilities, water supply plants, pumps, reservoirs, wells and elevated storage tanks for the purpose of providing services to the public.

(f) Extraction of sand, gravel, rock and soil.

(g) Clubs, private.

(h) Radio, television or microwave towers, provided that the distance from the center of the base of the tower to the nearest property line shall not be less than the height of the tower plus 25 feet. One permanent building containing transmitting equipment shall be permitted as an accessory use.

(i) Greenhouses and nurseries for commercial purposes.

(j) Temporary recreational and entertainment facilities.

(k) Logging operations, sawmills, and mill storage of lumber, not including fabrication of timber structures.

(l) Campgrounds.

(m) Structure in excess of the maximum height set forth below.

(n) Veterinary clinic.

(o) Bed and breakfast.

(p) Winery selling only wines fermented on the premises.

3. Height, Area and Lot Requirements

Maximum building height - 35 feet.

Minimum front yard - 50 feet.

Minimum side yard - 40 feet.

Minimum rear yard - 50 feet.

Minimum lot width - 150 feet.

Minimum lot area - 3 acres.

4. Parking, Loading and Sign Regulations

See Sections III and IV.

2.030 RESIDENTIAL DISTRICT (R-1 & R-2). These districts are intended to provide for residential development of moderately spacious character, together with such public buildings, schools, churches, public recreational facilities, and accessory

uses as may be necessary to or are normally compatible with residential surroundings.

2.040 R-1

1. Permitted uses. The following uses shall be permitted in the R-1 district:

- (a) Single-family dwelling.
- (b) Churches and educational buildings.
- (c) Public parks, playgrounds, recreation buildings.
- (d) Schools, elementary and secondary.
- (e) Non-residential public buildings or facilities

erected by a governmental agency.

- (f) Historic Sites.

2. Conditional uses.

- (a) Two-family dwellings.
- (b) Multi-family dwellings.
- (c) Bed and Breakfast residence.

3. Height, Area and Lot Requirements.

Maximum height - 35 feet.

Minimum front yard - 25 feet.

Minimum side yard - 7 feet.

Minimum rear yard = 25 feet.

Minimum lot width - 60 feet.

Minimum lot area - 6,000 square feet.

4. Parking, Loading and Sign Regulations.

See Sections III and IV

2.050 R-2

1. Permitted uses.

(a) Single-family dwellings.

(b) Parks or playgrounds.

(c) Non-residential public building or facilities erected by governmental agencies.

(d) Public schools, elementary and high, or private schools having a curricula equivalent to public elementary or high schools.

(e) Churches.

(f) Cemeteries.

(g) Historic Sites.

2. Conditional uses.

(a) Railroad and utility rights-of-way, including electric, gas and telephone utilities.

(b) Nurseries and truck gardens, provided no retail business shall be conducted upon the premises.

(c) Kennels, on a site of not less than 2 acres, provided all pens are at least 200 feet from all side and rear lot lines.

(d) Accessory uses incident to the above uses when located on the same lot and including home occupations,

vegetable and flower gardens.

(e) Privately operated recreational facilities including lakes, swimming pools, tennis courts.

(f) Clubs, private, on sites of not less than 2 acres.

(g) Nursery, prekindergarten, play, special, or other private schools.

(h) Radio, television or microwave towers, provided that the distance from the center of the base of the tower to the nearest property line shall not be less than the height of the tower plus 25 feet. One permanent building containing transmitting equipment shall be permitted as an accessory use.

(i) Greenhouses.

(j) Two-family dwellings.

(k) Multi-family dwellings.

(l) Bed & Breakfast

3. Height, Area and Lot Requirements.

Maximum height - 35 feet.

Minimum front yard - 35 feet.

Minimum side yard - 20 feet.

Minimum rear yard - 35 feet.

Minimum lot width - 150 feet.

Minimum lot area - one acre.

4. Parking, Loading and Sign Regulations

See Sections III and IV.

2:060. Commercial District. The Commercial District is intended for retail and service uses that provide adequate off-street parking and unloading facilities, that need large areas for outdoor storage, and that serve the traveling public.

1. Permitted Uses

- (a) Any use permitted within the "R" Districts.
- (b) Mortuaries.
- (c) Office or office buildings, clinics, and medical and dental laboratories.
- (d) Nursery sales offices, buildings and greenhouses.
- (e) Retail establishments selling goods (excluding motor vehicles, lumber, farm equipment and marine equipment) and services, including instruction, in connection with which no slaughtering of animals or poultry, nor commercial fish-cleaning or processing shall be done on the premises.
- (f) Restaurants, bakeries, confectioneries, cafeterias, cocktail lounges, taverns, ice cream parlors and tea rooms, excluding drive-in and drive-through establishments.
- (g) Places of public assembly.
- (h) Bed and breakfasts.
- (i) Printing offices.
- (j) Historic Sites.
- (k) Automobile service stations and repair facilities.
- (l) Banks.

2. Conditional Uses

- (a) Any conditional use permitted within the "R"

Districts.

(b) Retail establishments selling motor vehicles, lumber, farm equipment and marine equipment.

(c) Warehouses.

(d) Hotels and motels.

(e) Automobile parking and storage facilities, excluding facilities for storage of unlicensed motor vehicles.

(f) Wholesaling facilities.

(g) Wineries.

(h) Filling Station

3. Building Height, Area and Lot Requirements

Minimum height - 45 feet.

Minimum front yard - 35 feet.

Minimum side yard - 10 feet.

Minimum rear yard - 25 feet for lots the rear of which abut lots zoned residential; 15 feet for other lots.

Minimum lot width - None.

Minimum lot area - 6,000 square feet, provided that, for uses permitted in "R" Districts, lot area requirements of the "R" Districts shall apply.

4. Parking, and Sign Regulations

See Sections III and IV.

SECTION III - PARKING REGULATIONS

Off-street Parking Requirements

Off-street parking spaces shall be provided in all districts as follows:

| <u>Use or Use Category</u> | <u>Off-Street Parking Spaces Required</u> |
|---|---|
| One- or two-family dwelling: | 2 per dwelling unit. |
| Multiple-family dwelling: | 2 per dwelling unit. |
| Church, temple, synagogue, auditorium or place of assembly: | 1 per 4 seats or bench seating spaces in main auditorium. |
| Elementary, junior high, or nursery school: | 2 per classroom. Public library, museum: 10 per building plus 1 additional space for each 300 square feet of floor area in excess of 1,000 square feet. |
| Private clubs with sleeping rooms: | 2 per 3 sleeping rooms or suites or 1 per 5 active members, whichever is greater. |
| Private clubs with no sleeping rooms: | 1 per 10 active members or for each 600 square feet of floor area, whichever is greater. |
| Bed & Breakfast or Motel: | 1 per sleeping room. |
| Office or Office building (other than medical), post office, studio: | 1 per 300 square feet of floor area, 3 spaces minimum. |
| Funeral home: | 1 per 50 square feet of floor area excluding storage and work areas, 30 spaces minimum. |
| Restaurant or other establishment for consumption of food or beverages inside a building on the premises: | 1 per 100 square feet of floor area, 3 spaces minimum. |

| | |
|---|---|
| Retail establishment or bank: service establishment and banks: | 1 per 300 square feet of floor area; retail food store over 4,000 square feet: 1 per 200 square feet of floor area. |
| Furniture or appliance store, machinery, equipment, and automobile and boat sales and service: | 1 per 400 square feet of floor area; 2 spaces minimum. Automobile sales 10 spaces minimum. |
| Amusement place, auditorium, dance hall, skating rink, swimming pool, or exhi- bition hall, without fixed seats: | 1 per 100 square feet of floor area excluding area occupied by accessory uses. |
| General repair, printing, publishing, plumbing, or heating establishment, or broadcasting station: | 1 per 3 employees on pre- mises plus spaces required for auditorium by the provision above set forth. |
| Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse or similar establishment. | 1 per 2 employees on maximum working shift. |

Interpretation of Requirements

- (a) In addition to the spaces required above, one space shall be provided for each vehicle used in connection with any business.
- (b) The parking requirements in this section do not limit special requirements which may be imposed as a condition to the grant of any conditional use permit.
- (c) Where fractional spaces result from the above computation, the parking spaces required shall be rounded to the next whole number.
- (d) Except as otherwise provided, the number of

employees shall be calculated on the basis of the number of persons employed on the premises at one time on an average day. Seasonal variations in employment may be recognized in determining an average day.

(e) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(f) Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, so as to increase by 10 percent or more the number of parking spaces required by this section, such additional spaces shall be provided.

(g) In addition to the parking space requirements set forth here and above, all business establishments shall provide sufficient off-street loading spaces to avoid congestion of the public streets serving the same.

3. Joint Use and Off-Site Facilities

(a) All parking spaces required hereby shall be located on the same lot with the building or use served or on a lot adjoining the same, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by

two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from building served.

Improvement and Design Standards for Off-Street Parking

(a) Minimum Area Parking Space. An off-street parking space is an all-weather surfaced area not in a street or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

(b) Minimum Size Loading Space. For the purpose of these regulations, a loading space within a main building or on the same lot, providing for the standing, loading or unloading of trucks, shall have a minimum area of 540 square feet, minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 14.5 feet.

(c) Drainage and Maintenance. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and public streets and alleys and shall be surfaced with erosion-resistant material in accordance with applicable municipal specifications. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and shall not be used for the sale repair, or dismantling or servicing of

any vehicles, equipment, materials or supplies.

(d) Entrances and Exits. Location and design of entrances and exits shall be in accord with the requirements of applicable regulations and standards. In general, no lot shall have more than one entrance and one exit, or one combined entrance and exit, on any street. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control the entrance and exit of vehicles and pedestrians.

(e) Marking. Parking spaces in lots of more than ten spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation on the lot.

(f) Screening. When off-street parking areas for ten or more automobiles are located closer than 50 feet to a lot in a residential district, or to any lot upon which there is a dwelling as a permitted use under these regulations, and where such parking areas are not entirely screened visually from such lot by an intervening building or structure, a continuous, visual screen with a minimum height of 6 feet shall be provided between the parking area and the said lot in a residential district or upon which there is a dwelling. Such screen may consist of a compact evergreen hedge or foliage screening or a louvered wall or fence.

SECTION IV SIGN REGULATIONS

4.010 General Sign Requirements

1. No sign shall be erected in the Town of Augusta without

having obtained a sign permit from the Board of Trustees with the exception of the following signs:

(a) Temporary signs not exceeding twelve (12) square feet in area advertising the sale, rent, or lease of real estate upon which the sign is located. Such signs shall be removed thirty (30) days following the sale, rent, or lease of the property advertised.

(b) A nameplate not exceeding one (1) square foot in area lighted with only non-intermittent light identifying a private residence.

(c) Official traffic and directional signs.

(d) Public signs and notices, posted by or at the direction of a unit of government.

(e) Non-commercial church, public, charitable, institutional, and public or semi-public bulletin boards or signs not exceeding 32 square feet in area and located on the premises of the organization sponsoring same.

(f) Temporary signs not to exceed 32 square feet in area relating to a specific sale, election, or other event. Said signs shall be erected no more than sixty (60) days prior to the event to which they relate, and shall be removed not more than fourteen (14) days following said event, and no such sign shall remain in place for more than seventy five (75) days.

(g) Signs not to exceed two square feet in area identifying historical sites.

2. Signs or devices which by color, location, or design

resemble or conflict with traffic control signs are prohibited.

3. No sign shall contain flashing lights, intermittent lights, animators, or mechanical movements of any kind, except clocks.

4. All signs and their supports shall be set back from all public and private rights-of-way at least ten (10) feet (as measured from the sign edge or trim), provided that no sign shall be located upon any corner lot within the area thereof that is included between the lines of the intersecting streets and a straight line connecting said lines at points thirty (30) feet distant from the intersection of the pavement of said streets.

5. One monument may be erected at the main entrance of each subdivision. Said monument may include a sign setting forth only the name of the subdivision, and no other advertising. Such monuments shall be erected in accordance with plans approved by the Board of Trustees. Such plans shall specify the location of the proposed monument and its height and length.

6. No sign shall be located in such a manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, or so as to obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic.

7. No Permit shall be issued for the erection of a sign in any residential district, except that the Board of Trustees may issue a permit for the erection of a sign in connection with its grant of a conditional use permit, provided that any sign so

authorized shall be constructed in compliance with the provisions herein above set forth with respect to the district in which

said use is defined as a permitted use or with respect to the commercial districts, whichever provisions shall be more restrictive.

8. No sign shall be erected within ten (10) feet of any structure, nor shall the same overhang any structure.

4.020 Additional Signs Permitted in Specific Districts.

In addition to signs permitted in all districts by section 4.010 (1) hereof, the following signs may be erected without permits in the following districts upon the conditions hereinafter set forth.

1. Flood Plain and Agricultural Districts (F-P, A-1)

(a) Signs not exceeding three hundred (300) square feet in area relating to the sale, lease, or rent of property on which such sign is placed. Such signs shall be removed within 30 days following the sale, rent, or lease of the property advertised.

(b) Signs advertising the sale of agricultural produce on property on which the produce is grown. Such signs shall not be illuminated and shall not exceed 40 square feet in area, and shall be located on the premises where the produce is grown and sold.

3. Residential Districts (R-1, R-2)

(a) One non-illuminated sign not exceeding two (2)

square feet in area may be affixed to any residence identifying the occupant and the occupant's occupation, if carried on in the residence.

4.030 Commercial (C-1)

Upon the issuance of a proper permit, the following signs may be erected in commercial districts.

1. All signs permitted in "A" and "R" Districts are permitted in Commercial districts.

2. Any lawful business may display one (1) sign on each street upon which the business has an entrance or exit. The total area of each sign shall not exceed sixty (60) square feet, provided that one emblem, logo or trademark occupying no more than an additional six (6) square feet in area may be displayed as a part of such sign. Any sign displayed under the provisions of this subsection shall be affixed to a wall of the building in which the advertised business is conducted, or depended from a structure affixed to a wall thereof.

4.040 Administration of Sign Regulations

1. Applications for the erection of signs shall be filed upon forms provided by the Zoning Commissioner.

2. There shall be a sign permit fee of \$10.00 per sign for each on-premise sign. For each off-premise or billboard sign there shall be a sign permit fee of \$25.00. Fees shall accompany each application for a sign permit.

3. If work authorized under a sign permit is not completed within one (1) month of the date of approval of the permit, the

sign permit shall become null and void. An extension of time for any sign permit may be authorized by the Zoning Commissioner.

4.No permit shall be issued to any applicant who has been cited for a violation of these regulations and who has failed to correct said violation until the violation is corrected.

5. Each application for a sign permit must be signed by the owner of the property on which the sign is to be located or an agent for the owner, or by someone who has an interest in the property. Any agent for the owner must show proof of agency and proof of the owner's interest in the property. All others must show proof of interest in the property at the time of signing.

SECTION V - NONCONFORMING USES

5.010 Nonconforming use of land or nonconforming use of structures may be continued provided that:

(a) A nonconforming use of land shall not be changed unless changed to a conforming one.

(b) The area devoted to a nonconforming use of land cannot be extended beyond the lot area on which the use was located on the effective date of this ordinance, or of any amendment hereto by reason of which the use became nonconforming.

(c) The lawful use of a building existing at the effective date of this Order may be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been

changed to a more restricted use, such use shall not thereafter be changed to a less restricted use. Whenever the use of a building has changed to a conforming use, such use shall not be changed to a nonconforming use. The nonconforming use of a building may be hereafter extended throughout those parts of a building which were lawfully and manifestly arranged or designed for such use at the time of the enactment of this Order.

5.020 A nonconforming structure may be enlarged with the approval of the Board of Trustees, but in no event shall the enlargement of the structure be in violation of the existing are requirements applicable to the zoning district in which the structure is located.

5.030 A nonconforming structure may not be rebuilt or re-established if said structure is damaged to an extent that the cost of repair exceeds two-thirds of its fair market value immediately prior to damage, provided that any such structure may be rebuilt or reestablished if the damage to the structure has resulted from accident, natural disaster or vandalism, and if the owner of said structure shall show the ability and intent to reestablish the same and shall apply for a building permit within ninety (90) days of the occurrence of the damage.

5.040 Nonconforming Advertising Signs. The use of a nonconforming advertising sign shall be deemed abandoned at such time as no advertising message shall have been displayed thereon for a period of sixty (60) consecutive days.

5.050 Intermittent Use. The casual, intermittent, temp-

orary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

5.060 Existence of a Nonconforming Use. Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Commissioner. Such decision may be appealed to the Zoning Board of Adjustment.

5.070 A nonconforming use shall terminate upon the approval of an application for a permit for a conditional use of the premises on which the nonconforming use exists.

SECTION VI

6.010 Additional Regulations.

1. The height of television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, state towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, stacks, conveyors and flag poles shall not exceed fifty (50) feet provided that the Board of Trustees may grant conditional use permits for the erection of such structures to a greater height.

6.020 Additional Yard Requirements

1. The following yard requirements must be observed in addition to the requirements set forth with respect to each district:

(a) On lots fronting on two non-intersecting streets,

a front yard must be provided on each street.

(b) Buildings on corner lots must be set back from each intersecting street so as to comply with the front-yard requirement applicable within the district, provided that the buildable width of a lot of record shall not be reduced by the provisions hereof to less than twenty-eight (28) feet so long as no portion of any structure is located less than five (5) feet from a street.

(c) If the frontage of a single lot is divided among districts with different front yard requirements, the requirement for the deepest front yard applicable to any portion of the lot shall apply to the frontage of the entire lot.

(d) Required front yards shall be devoted entirely to landscaped area except for parking and the necessary paving of driveways and sidewalks to each parking or loading areas in the side or rear yard.

(e) The minimum width of side yards for schools, libraries, churches, community buildings and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard adjoins a commercial or industrial district, in which case the width of that yard shall be as required in the district in which the building is located.

(f) No fence, wall, shrub or other obstruction to vision exceeding three feet in height above the established street grade shall be constructed, planted or maintained within the area of a corner lot that is included between the lines of

the intersecting streets and a straight line connecting them at points 30 feet distant from the intersection of the pavement of the streets.

6.030 Keeping of Pets.

1. In all residential districts, dogs, rabbits and cats may be kept as domestic pets by the occupant of a dwelling. These animals may not be used or kept for commercial or retail purposes, or so as to cause a public nuisance. Chickens, geese, ducks, turkeys and other fowl shall be permitted under the following conditions:

(a) Lot size minimum of one acre.

(b) A permanent shelter or pen shall be provided, to be no less than 50 feet from side and rear property lines; 60 feet from the front property line.

(c) All animal shelters shall be maintained in a sanitary condition.

(d) Fowl shall not be kept for commercial or resale purposes, or so as to cause a public nuisance.

(e) No more than 3 fowl shall be kept for each acre contained within the lot.

6.040 Exceptions to Yard Requirements

1. On lots on which multiple buildings are located or are to be located, and on which the building farthest from the street is no more than ten (10) feet further from the street than is the building nearest the street, the depth of the front yard shall be determined by adding to the distance from the street of the

building nearest the same, one-half of the difference between said distance and the distance from the street of the building farthest from the same.

2. Notwithstanding the area and yard requirements imposed by this ordinance, any lot of record located within the town of Augusta at the time of the adoption hereof may be used for single-family residential purposes, provided, however, that any lot of record which is of insufficient size to meet the requirements of this ordinance shall be deemed, for purposes of this ordinance, to be combined with any adjacent land owned by the owner of said lot.

6.050 Accessory Buildings.

1. All accessory buildings shall be located in the rear yards of the lots upon which they are situated in residential and commercial districts.

2. No more than one accessory building may be erected upon any lot within a residential district.

3. Accessory buildings located within residential districts shall not exceed the areas hereinafter set forth:

(a) On lots or parcels less than 10,000 square feet in area, no accessory building shall exceed 600 square feet in area.

(b) On lots of more than 10,000 and less than 15,000 square feet, no accessory building shall exceed 800 square feet in area.

(c) On lots of 15,000 square feet or more, but less than 20,000 square feet, no accessory building shall exceed 1,000

square feet in area.

(d) On lots of 20,000 square feet or more, but less than one acre, no accessory building shall exceed 1,500 square feet in area.

(e) On lots of more than one acre, no accessory building shall exceed 2,500 square feet in area.

4. No accessory building in a commercial district shall occupy more than thirty percent (30%) of the rear yard of the premises where the same shall be located.

5. All accessory buildings erected within ten (10) feet of a main building must be so located as to comply with the rear yard and side yard requirements applicable within the district where the same are located.

6. No accessory building located more than ten (10) feet from the main building on the lot where the same is to be erected shall be located^o less than two (2) feet from any lot line, provided that garages to which access is gained from any alley shall be set back ten (10) feet or more from the alley line.

7. No provision contained in this ordinance shall be deemed to prohibit the erection of an accessory building on any corner lot of record twenty-two (22) feet or more in width.

6.060 Commercial Vehicles.

Commercial vehicles shall not be stored or parked, except while goods are being delivered or services performed on adjacent premises, on any street within a residential district. Nor shall any commercial vehicle be stored or parked on any lot

within a residential district, provided that the owner or occupant of a residence may park one vehicle within the back-yard area, as defined by this ordinance, of the lot upon which the residence is located or any lot adjacent thereto. The term commercial vehicle shall mean a truck with a load capacity of more than one ton and bearing non-farm license plates.

SECTION VII - CONDITIONAL & LAND USE PERMITS

7.010 Applications for permits for conditional uses authorized by the district use regulations of this ordinance shall be made to the Board of Trustees. The Board shall refer each application to the Zoning Commission for investigation. A report and recommendation shall be filed by the Commission with the Board within 30 days of the day of referral of the application to the Commission. Following its receipt of the Commission's report, the Board shall render a decision upon the application.

1. Before authorizing the issuance of a conditional use permit, the Board shall find, after a hearing held as hereinafter set forth, that:

(a) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(b) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood.

c) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

(d) Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(e) The conditional use shall in all other respects conform to the applicable regulations of the district in which it is located.

(f) There is a need for the conditional use.

2. As a condition to the grant of any conditional use permit, the Board of Trustees may impose such conditions as the Board shall find necessary to bring the grant of the application within the requirements set forth herein above.

3. Hearings held pursuant to Subsection 1 hereinabove shall be recorded by stenographic or electronic means. Notice of each hearing shall be sent by ordinary mail to the owner of every parcel of land located within 200 feet of the property which is the subject of the application for a conditional use permit. Such notice shall be mailed not less than ten (10) days prior to the date of the hearing, and the Town Clerk's certificate as to the mailing of the same, which shall include a list of the names and addresses of each addressee to whom notice was mailed, shall

be made a part of the record of the hearing. Notice of the application for a conditional use permit and of the date, time and place of the hearing thereon shall be posted upon the subject premises not less than ten (10) days prior to the date of the hearing.

4. A fee in the amount of ~~500.00~~ ^{\$500.00} shall accompany each application for a conditional use permit.

7.020 Land Use Permits.

1. It shall be unlawful to construct, alter, repair, or remove or to commence the construction, alteration, removal or demolition of a building or structure, without first filing with the Zoning Commissioner an application in writing and obtaining a formal permit.

2. Form. Each application for a land use permit shall be submitted in such form as the Board of Trustees may prescribe. Such application shall be made by the owner or lessee, or agent of either, or the architect, engineer, or builder employed in connection with the proposed work. If such application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner in fee, or the person making the application that the proposed work is authorized by the owner in fee and that the person making the application is authorized to make such application. Such application shall include a legal description of the property and contain the full name and address of the applicant and of the owner, and, if the

owner is a corporate body, of its responsible officers. The deed to the property shall be submitted for verification. Such application shall describe briefly the proposed work. Such application shall be accompanied by payment of such fees as the Town Board may determine from time to time.

3. Plans. Application for permits shall be accompanied by such drawings of the proposed work, drawn to scale, including such floor plans, sections, elevations or structural details, as the Zoning Commissioner may require.

4. Plot Diagram. There shall also be filed 2 copies of a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions given, showing accurately the size and exact location of all proposed new construction and of all existing buildings, prepared by, and signed by, a registered surveyor, engineer or architect.

5. Amendments. Nothing in this section shall prohibit the filing of amendments or to an application to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

6. Completion of Existing Buildings. Nothing contained Order shall require any change in the plans, construction, size or designated use of a building, for which a valid permit has been issued or lawful approval given before the effective date of

this Order: provided, however, construction under such permit or approval shall have been started within six months and the ground story framework, including structural parts of the second floor, shall have been completed within one year and the entire building completed within 2 years after the effective date of this Order.

7. Action on Application. It shall be the duty of the Zoning Commissioner to examine applications for land use permits within a reasonable time after filing. If, after examination, he finds that the proposed work will be in compliance with the laws and orders applicable thereto, he shall approve such application and issue a permit for the proposed work as soon as practicable. If his examination reveals otherwise, he will reject such application, noting his finding in a report to be attached to the application and delivering a copy to the applicant.

8. Approval in Part. Nothing in this section shall be construed to prevent the Zoning Commissioner from issuing a permit for the construction of part of a building or structure before the entire plans and detailed statements of said building or structure have been submitted or approved, if adequate plans and detailed statements have been presented for the same and have been found to comply with this Order.

9. Condition of the Permit. All work performed under a permit issued by the Zoning Commissioner shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction shall be as shown on the approved plot diagram, or an approved amendment thereof. It shall

be unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

10. Signature to Permit. Every permit issued by the Zoning Commissioner under the provisions of this Order shall have his signature affixed thereto; but this shall not prevent him from authorizing a subordinate to affix such signature.

11. Limitation. A permit under which no work is commenced within one year after issuance shall expire.

12. Revocation. The Zoning Commissioner may revoke a permit or approval issued under the provisions of this Order in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

SECTION VIII

CREATION, POWERS AND DUTIES OF THE ZONING BOARD OF ADJUSTMENT

8.010 A Board of Adjustment shall be appointed by the Board of Trustees, which Board of Adjustment (herein referred to as the "Board") may determine and vary the application of the regulations and restrictions contained in this ordinance, in

harmony with the general purpose and intent of said regulations and restrictions, and in accordance with the general and specific rules contained in this ordinance.

8.020 The membership of the first Board shall serve respectively, one for one year, one for two years, one for three years, one for four years and one for five years. Thereafter, members shall be appointed for terms of five years each. The Board of Trustees may also appoint three alternate members to serve in the absence or disqualification of the regular members. Members shall be removable and vacancies filled in accordance with the provisions of Sections 89.080 R.S.Mo. and other applicable laws.

8.030 The Board shall elect its own chairman and shall adopt rules of procedure consistent with the provisions of this Order and other applicable law. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public, and minutes shall be filed in the office of the Board and shall be a public record.

8.040 Appeals to the Board may be taken by any owner, lessee or tenant of land, or by a public officer, department, board or bureau affected by any order, requirement, decision or determination of the Zoning Commissioner. Such appeals shall be made within three months of the action appealed from, and in the manner provided by the rules of the Board. An appeal shall stay all proceedings in furtherance of the action appealed from unless

the Zoning Commissioner shall certify to the Board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

8.050 The Board of Adjustment shall have all of the powers and duties set forth in Section 89.090 R.S.Mo. and all proceedings on appeal before the Board shall be as set for in rules adopted by the Board and by the provisions of Chapter 89 of the Revised Statutes of Missouri, and such future laws as may be adopted with respect to proceedings before Boards of Zoning Adjustment.

SECTION IX

REQUESTS FOR CHANGES IN ZONING

9.010 Any request for a change in zoning shall be filed in writing with the Zoning Commissioner. All such applications shall be signed by the owner or owners of the premises as to which a change in zoning is requested, or by the authorized agent of the owners. Applications signed by agents shall be accompanied by proof of agency. All such applications shall be accompanied by a fee in the amount of ~~_____~~ \$/1000.00.

9.020 The Zoning Commissioner shall schedule two hearings before the Zoning Commission, which shall be held not less than thirty (30) nor more than ninety (90) days from the date of receipt of the application. Notice of such hearings shall be published in a newspaper qualified to publish legal notices within the town not less than fifteen (15) days prior to the date

of the first scheduled hearing, and shall be posted upon the subject premises and mailed to the owners of other property in the same manner as is hereinabove set forth with respect to applications for conditional use permits.

9.030 Proceedings before the Zoning Commission shall be informal. Upon the conclusion of its hearings, the Zoning Commission shall promptly issue a recommendation as to the approval or denial of the change in zoning to the Board of Trustees. A copy of such recommendation shall be mailed to the applicant at the time of delivery thereof to the Board of Trustees.

9.040 On receipt of the report and recommendation of the Zoning Commission, the Board of Trustees shall take such action upon the application as the Board deems proper, provided, however, that no change in zoning may be granted except as provided in Section 89.060 R.S.Mo.

SECTION X

ESTABLISHMENT OF THE ZONING COMMISSION AND APPOINTMENT OF A ZONING COMMISSIONER

10.010 The provisions of this ordinance shall be administered by a zoning commission approved by the Board of Trustees. The Commission shall consist of 5 members, 1 of whom shall be the Zoning Commissioner, who shall be the Code Official, appointed by the Board of Trustees.

1. Zoning Commissioner

(a) Duties. It shall be the duty of the

Zoning Commissioner to enforce this Ordinance. He shall receive applications required by the Ordinance, issue permits and furnish the prescribed certificates. He shall examine premises for which permits have been issued, and shall make necessary inspections to see that the provisions of law are complied with. He shall enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided for. He shall, when requested by the Town Board or when the interests of the Town so require, make investigations in connection with matters referred to in this Order and render written reports on same. For the purpose of enforcing compliance with law, he shall issue such notices or orders as may be necessary.

(b) Records. The Zoning Commissioner shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered, and of notices or orders issued. He shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection at reasonable hours, but shall not be removed from the office of the Zoning Commissioner.

SECTION XI

PENALTY FOR VIOLATION

11.010 Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith or with any of the requirements hereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor and shall be liable for a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Each day such violation is permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this chapter shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be fined as hereinabove provided.

SECTION XII

SEVERABILITY

12.010 Provisions of this Ordinance shall be deemed to be severable, so that, if any provision hereof shall be determined to be void or unenforceable such determination shall not affect

the remaining provisions of this Ordinance, which shall remain in full force and effect.

SECTION XIII

EFFECTIVE DATE

This ordinance shall become effective 29 days after its passage and approval.

Passed and Approved this _____ day of _____, 1993.
Board of Trustees
Town of Augusta, Missouri

By: _____
Chairman

Attest: _____
Secretary

Missouri Revised Statutes

Chapter 89 Zoning and Planning

August 28, 2009

Applicability of law--conflict with zoning provisions of another political subdivision, which to prevail.

89.010. 1. The provisions of sections 89.010 to 89.140 shall apply to all cities, towns and villages in this state.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

(RSMo 1939 § 7423, A.L. 1941 p. 460, A.L. 1957 p. 274, A.L. 2007 H.B. 205 merged with H.B. 795 merged with S.B. 22 merged with S.B. 81)

Prior revision: 1929 § 7270

Powers of municipal legislative body--group homes, classification, standards, restrictions--enforcement of zoning beyond lake shorelines, when, how--foster homes, classifications of--certain municipalities may adopt county zoning regulations.

89.020. 1. For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of all cities, towns, and villages is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the preservation of features of historical significance, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

2. For the purpose of any zoning law, ordinance or code, the classification single family dwelling or single family residence shall include any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two 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. In the case of any such residential home for mentally or physically handicapped persons, the local zoning authority may require that the exterior appearance of the home and property be in reasonable conformance with the general neighborhood

standards. Further, the local zoning authority may establish reasonable standards regarding the density of such individual homes in any specific single family dwelling neighborhood.

3. No person or entity shall contract or enter into a contract which would restrict group homes or their location as defined in this section from and after September 28, 1985.

4. Any county, city, town or village which has a population of at least five hundred and whose boundaries are partially contiguous with a portion of a lake with a shoreline of at least one hundred fifty miles shall have the authority to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline which is adjacent to its boundaries. In the event that a lake is not large enough to allow any county, city, town or village to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline without encroaching on the enforcement powers granted another county, city, town or village under this subsection, the counties, cities, towns and villages whose boundaries are partially contiguous to such lake shall enforce their zoning laws, ordinances or orders under this subsection pursuant to an agreement entered into by such counties, cities, towns and villages.

5. Should a single family dwelling or single family residence as defined in subsection 2 of this section cease to operate for the purpose as set forth in subsection 2 of this section, any other use of such home, other than allowed by local zoning restrictions, must be approved by the local zoning authority.

6. For purposes of any zoning law, ordinance or code the classification of single family dwelling or single family residence shall include any private residence licensed by the division of family services or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption. Nothing in this subsection shall be construed to relieve the division of family services, the department of mental health or any other person, firm or corporation occupying or utilizing any single family dwelling or single family residence for the purposes specified in this subsection from compliance with any ordinance or regulation relating to occupancy permits except as to number and relationship of occupants or from compliance with any building or safety code applicable to actual use of such single family dwelling or single family residence.

7. Any city, town, or village that is granted zoning powers under this section and is located within a county that has adopted zoning regulations under chapter 64, RSMo, may enact an ordinance to adopt by reference the zoning regulations of such county in lieu of adopting its own zoning regulations.

(RSMo 1939 § 7412, A.L. 1957 p. 274, A.L. 1959 H.B. 493, A.L. 1985 H.B. 552, A.L. 1989 S.B. 11, A.L. 2006 S.B. 809)

Zoning districts.

89.030. For any or all of said purposes the local legislative body may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of sections 89.010 to 89.140; and within such districts may regulate and restrict the erection, construction, reconstruction, alteration or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

(RSMo 1939 § 7413)

Prior revision: 1929 § 7260

Purpose of regulations.

89.040. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen

congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to preserve features of historical significance; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout such municipality.

(RSMo 1939 § 7414, A.L. 1959 H.B. 493)

Prior revision: 1929 § 7261

Powers and limitations of legislative body in city--hearings, notice.

89.050. The legislative body of such municipality shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, no such regulation, restriction, or boundary shall become effective 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 days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such municipality.

(RSMo 1939 § 7415)

Prior revision: 1929 § 7262

(2000) Ordinance directed toward regulation of public health and safety, as opposed to a zoning ordinance, does not require the statutory notice and hearing prior to enactment. *City of Green Ridge v. Kreisel*, 25 S.W.3d 559 (Mo.App.W.D.).

Change in regulations, restrictions and boundaries--procedure.

89.060. Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change duly signed and acknowledged by the owners of thirty percent or more, either of the areas 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 and eighty-five feet distant from the boundaries of the district proposed to be changed, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the legislative body of such municipality. The provisions of section 89.050 relative to public hearing and official notice shall apply equally to all changes or amendments.

(RSMo 1939 § 7416, A.L. 1988 H.B. 923)

Prior revision: 1929 § 7263

Zoning commission--appointment--duties.

89.070. In order to avail itself of the powers conferred by sections 89.010 to 89.140, such legislative body shall appoint a commission, to be known as "The Zoning Commission", to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report and such legislative body shall not hold its public hearings or take action until it has received the final report of such commission. Where a city plan commission already exists, it may be appointed as the zoning commission.

(RSMo 1939 § 7417)

Prior revision: 1929 § 7264

Board of adjustment--appointment--term--vacancies--organization.

89.080. Such local legislative body shall provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections 89.010 to 89.140 may provide that the board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The board of adjustment shall consist of five members, who shall be residents of the municipality except as provided in section 305.410, RSMo. The membership of the first board appointed shall serve respectively, one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter members shall be appointed for terms of five years each. Three alternate members may be appointed to serve in the absence of or the disqualification of the regular members. All members and alternates shall be removable for cause by the appointing authority 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 year. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 89.010 to 89.140. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon 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 board and shall be a public record. All testimony, objections thereto and rulings thereon, shall be taken down by a reporter employed by the board for that purpose.

(RSMo 1939 § 7418, A.L. 1971 H.B. 320, A.L. 1990 H.B. 1070, A.L. 2008 H.B. 1888)

Prior revision: 1929 § 7265

Board of adjustment--powers, exception for Kansas City.

89.090. 1. The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 89.010 to 89.140 or of any ordinance adopted pursuant to such sections;

(2) To hear and decide all matters referred to it or upon which it is required to pass under such ordinance;

(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, provided that, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, the board of adjustment shall not have the power to vary or modify any ordinance relating to the use of land.

2. In exercising the above-mentioned powers such board may, in conformity with the provisions of sections 89.010 to 89.140, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be

made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance except as provided in section 305.410, RSMo.

(RSMo 1939 § 7418, A.L. 1992 H.B. 1434 & 1490, A.L. 1993 S.B. 56, A.L. 1996 H.B. 956, A.L. 2008 H.B. 1888)

Prior revision: 1929 § 7265

Board of adjustment--appeals, procedure.

89.100. Appeals to the board of adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in section 32.105, RSMo, representing such person, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. 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 of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate 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 of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(RSMo 1939 § 7418, A.L. 1997 S.B. 112)

Prior revision: 1929 § 7265

Board of adjustment--decisions subject to review--procedure.

89.110. Any person or persons jointly or severally aggrieved by any decision of the board of adjustment, any neighborhood organization as defined in section 32.105, RSMo, representing such person or persons or any officer, department, board or bureau of the municipality, may present to the circuit court of the county or city in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. Upon the presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the

decision brought up for review. Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceedings under sections 89.080 to 89.110 shall have preference over all other civil actions and proceedings.

(RSMo 1939 § 7418, A.L. 1997 S.B. 112)

Prior revision: 1929 § 7265

Violations--penalties.

89.120. 1. 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 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.

2. The owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation, or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable as follows:

(1) In any city with more than three hundred thousand inhabitants, by a fine of not less than ten dollars and not more than five hundred dollars for each and every day that such violation continues, or by imprisonment for ten 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, however, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than two hundred and fifty dollars or more than one thousand dollars for each and every day that such violation shall continue, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court;

(2) In all other municipalities, by a fine of not less than ten dollars and not more than two hundred fifty dollars for each and every day that such violation continues, or by imprisonment for ten 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 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 or more than five hundred dollars for each and every day that such violation shall continue, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court.

3. Any such person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten days after such service or shall continue to violate any provision of the regulations made under authority of sections 89.010 to 89.140 in the respect named in such order shall also be subject to a civil penalty of two hundred and fifty dollars.

(RSMo 1939 § 7419, A.I., 1989 H.B. 498, A.I., 1998 H.B. 977 & 1608 and H.B. 1352, A.I., 2008 H.B. 1849 merged with S.B. 1002)

Prior revision: 1929 § 7266

Provisions of this law to govern, when.

89.130. Wherever the regulations made under authority of sections 89.010 to 89.140 require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of sections 89.010 to 89.140 shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of sections 89.010 to 89.140, the provisions of such statute or local ordinance or regulation shall govern.

(RSMo 1939 § 7420)

Prior revision: 1929 § 7267

Previous ordinances to remain in force.

89.140. Wherever any municipality pursuant to an act of the legislature of this state shall have adopted an ordinance or ordinances for any of the purposes covered by sections 89.010 to 89.140, such ordinance or ordinances shall be deemed to have been adopted under the provisions of sections 89.010 to 89.140, and it shall not be necessary in such cases for the local legislative body to appoint a zoning commission as provided in section 89.070. All such ordinances shall remain in full force and effect, except so far as they shall be inconsistent with the provisions of sections 89.010 to 89.140, until they shall have been amended, altered or repealed by such legislative body.

(RSMo 1939 § 7421, A. 1949 H.B. 2037)

Prior revision: 1929 § 7268

Zoning law to allow certain facilities.

89.143. 1. Any zoning law, ordinance or code enacted on or before August 28, 1990, by the governing body of any county, or any city, town or village containing a population of more than five hundred persons, as determined based upon the last previous decennial census of the United States, shall contain or be modified to contain appropriate provisions establishing as a permissive, conditional, or special use, the location and use of buildings, structures and land as residential or outpatient facilities for the treatment of alcohol and other drug abuse.

2. Any county, or such city, town, or village which fails to modify its zoning law, ordinance or code by January 1, 1991, to provide for classification as set out in subsection 1 of this section shall be deemed to have adopted the classification of commercial or an equivalent classification for such treatment facilities.

3. If a county, or such city, town, or village, initially adopts a zoning ordinance or code after August 28, 1990, it shall contain appropriate provisions establishing as a permissive, conditional, or special use, the location and use of buildings, structures and land as residential or outpatient facilities for the treatment of alcohol and other drug abuse. If such a zoning law, ordinance, or code does not contain such provisions, the county, or such city, town,

or village shall be deemed to have adopted the classification of commercial or an equivalent classification for such treatment facilities.

4. The local zoning authority may require that the exterior appearance of the facility and property be in reasonable conformance with the general standards in the area. Further, the local zoning authority may establish reasonable standards regarding the density of such residential treatment facilities in any specific neighborhood.

(L. 1990 S.B. 728 § 1)

Peripheral zoning (third class cities over 25,000 inhabitants).

89.144. 1. Any third class city having a population of more than twenty-five thousand inhabitants may, by ordinance, adopt and enforce regulations governing zoning, planning, subdivision and building within all or any portion of the unincorporated area extending two miles outward from the corporate limits of the city if the city has a zoning commission and a board of adjustment established pursuant to sections 89.010 to 89.140. When authorized by ordinance, the zoning commission and the board of adjustment of the city shall have the same powers within the unincorporated area as they have within the corporate limits of the city.

2. The ordinances, before passage, must be approved by order of the county commission of the county in which the unincorporated area is located and the ordinances shall not be more, but may be less, restrictive than the ordinances governing zoning, planning, subdivision and building within the corporate limits of the city. If building permits are required by the ordinances, they shall be issued without fee.

3. In the event the county in which the unincorporated area is located shall create a county planning commission and the planning commission shall adopt an official master plan for the unincorporated areas of the county in accordance with the provisions of chapter 64, RSMo, the authority granted the city under the terms of this section shall terminate.

(L. 1971 H.B. 145)

Peripheral zoning by certain cities--approval by county commission, hearing, notice--termination.

89.145. 1. Any constitutional charter city having a population of more than thirty-five thousand inhabitants, located in any county of the first class not having a charter form of government or in any county of the second class, may, by ordinance, adopt and enforce any and all regulations governing zoning, planning, subdivision and building within all unincorporated area extending up to two miles outward from the corporate limits of the city if the city has a zoning commission and a board of adjustment established pursuant to sections 89.010 to 89.140. When authorized by ordinance, the zoning commission and the board of adjustment of the city shall have the same powers within the above county as they have within the corporate limits of the city.

2. The ordinances, before passage, must be approved by order of a majority of the county commission of the county in which the city is located and the ordinances shall not be more, but may be less, restrictive than the ordinances governing zoning, planning, subdivision and building within the corporate limits of the city. Before the approval of the ordinance, the county commission shall hold at least one public hearing thereon, fourteen days' notice of the time and place of which shall be published in at least one newspaper having general circulation within the county; the notice of such hearing shall also be posted at least fourteen days in advance thereof in one or more public areas of the courthouse of the county. Such hearing may be adjourned from time to time.

3. In the event the county in which such city is located creates a county planning commission and the planning commission adopts an official master plan for the unincorporated areas of the county in accordance with the

authority granted by sections 64.211 to 64.295, RSMo, or by sections 64.510 to 64.690, RSMo, the authority granted such constitutional charter city under the terms of this section shall terminate.

(L. 1959 S.B. 102, A.L. 1974 1208, A.L. 1992 S.B. 571)

Effective 7-9-92

Municipalities in first class charter counties annexing territory with a prior zoning classification, zoning not affected.

89.191. Whenever any city, town or village, located in a county of the first class with a charter form of government annexes any unincorporated territory, the zoning classification of the annexed territory shall remain the same as it was prior to the annexation, unless the zoning classification is affirmatively changed through the regular rezoning procedures used by the annexing city, town or village.

(L. 1991 S.B. 93 § 1)

Street defined.

89.210. The word "street", as used in sections 89.220 to 89.250, means any public highway, esplanade, boulevard, parkway, square or street, or any part or side, or part of the side, of any of the same.

(RSMo 1939 § 7747)

Prior revision: 1929 § 7599

Establishment of building lines.

89.220. It shall be lawful for any city now having or which may hereafter have five hundred thousand or more inhabitants to provide by ordinance for the establishment of building lines on any public street. Such building line shall be established by the same procedure as that provided by law in such city for the acquiring of land for the opening of streets. After the establishment of any such line no building or other structure shall be erected, reconstructed or substantially repaired and no new building or other structure or part thereof shall be reerected within said lines so established.

(RSMo 1939 § 7748)

Prior revision: 1929 § 7600

Structures shall be required to conform to new line, when.

89.230. Whenever and wherever a building line shall be established as aforesaid, all structures extending within such building lines shall be required to conform to the new line within a period of not more than twenty-five years from the time of establishing said lines, such time to be provided in the ordinance providing for the establishment of such line. At the expiration of the time limit in which all structures are so required to conform to the new building line, the proper municipal authorities shall proceed in the manner then provided by law relating to condemnation proceedings by such cities to determine the additional damages sustained by the removal of such structure then within the building line and may in the same proceeding acquire the land within the building lines

or any part thereof as a street.

(RSMo 1939 § 7749)

Prior revision: 1929 § 7601

Assessment and payment of damages.

89.240. In payment for the real estate, improvements and easements to be taken and acquired for the establishment of such building lines as are herein provided and of the damages sustained thereby, benefits shall be assessed and collected in the same manner as provided by law in proceedings in any such city for the acquiring of lands for the opening of streets.

(RSMo 1939 § 7750)

Prior revision: 1929 § 7602

Law does not abridge or limit power of eminent domain.

89.250. This law shall not limit or abridge any power now or hereafter conferred by law on such cities to establish building lines or take any property or any interest therein by eminent domain.

(RSMo 1939 § 7751)

Prior revision: 1929 § 7603

Definitions.

89.300. For the purpose of sections 89.300 to 89.480 the following terms mean or include:

- (1) "Council", the chief legislative body of the municipality;
- (2) "Streets", any public ways;
- (3) "Subdivision", the division of a parcel of land into two or more lots, or other divisions of land; it includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

(L. 1963 p. 146 § 1)

Municipality may adopt city plan and appoint commission.

89.310. Any municipality in this state may make, adopt, amend, and carry out a city plan and appoint a planning commission with the powers and duties herein set forth.

(L. 1963 p. 146 § 2)

Planning commission--membership--terms--vacancy--removal.

89.320. The planning commission of any municipality shall consist of not more than fifteen nor less than seven 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 nor less than five 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 years, except that the terms of the citizen members first appointed shall be for varying 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.

(L. 1963 p. 146 § 3, A.L. 1997 H.B. 831, A.L. 1999 H.B. 853)

Commission officers, rules, records, employees, expenditures--zoning commission to constitute planning commission.

89.330. 1. The commission shall elect its chairman and secretary from among the citizen members. The term of chairman and secretary shall be for one year with eligibility for reelection. The commission shall hold regular meetings and special meetings as they provided by rule, and shall adopt rules for the transaction of business and keep a record of its proceedings. These records shall be public records. The commission shall appoint the employees and staff necessary for its work, and may contract with city planners and other professional persons for the services that it requires. The expenditures of the commission, exclusive of grants and gifts, shall be within the amounts appropriated for the purpose by council.

2. Where a zoning or planning commission exists on October 13, 1963, it shall constitute the city planning commission for the purposes of sections 89.300 to 89.480 in lieu of the commission provided for herein with the same officers, membership procedures, powers and terms of office as theretofore existing, unless the council otherwise provides; except in a charter city where the provisions of the charter shall govern.

(L. 1963 p. 146 § 4)

City plan, contents--zoning plan.

89.340. The commission shall make and adopt a city plan for the physical development of the municipality. The city plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the commission's recommendations for the physical development and uses of land, and* may include, among other things, the general location, character and extent of streets and other public ways, grounds, places and spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned, the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment or change of use of any of the foregoing; the general character, extent and layout of the replanning of blighted districts and slum areas. The commission may also prepare a zoning plan for the regulation of the height, area, bulk, location and use of private, nonprofit and public structures and premises, and of population density, but the adoption, enforcement and administration of the zoning plan shall conform to the provisions of sections 89.010 to 89.250.

(L. 1963 p. 146 § 5)

*Word "and" inadvertently omitted from original rolls.

Plan, prepared how--purposes.

89.350. In the preparation of the city plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the municipality. The plan shall be made with the general purpose of guiding and accomplishing a coordinated development of the municipality which will, in accordance with existing and future needs, best promote the general welfare, as well as efficiency and economy in the process of development.

(L. 1963 p. 146 § 6)

Adoption of plan, procedure.

89.360. The commission may adopt the plan as a whole by a single resolution, or, as the work of making the whole city plan progresses, may from time to time adopt a part or parts thereof, any part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. Before the adoption, amendment or extension of the plan or portion thereof the commission shall hold at least one public hearing thereon. Fifteen days' notice of the time and place of such hearing shall be published in at least one newspaper having general circulation within the municipality. The hearing may be adjourned from time to time. The adoption of the plan requires a majority vote of the full membership of the planning commission. The resolution shall refer expressly to the maps, descriptive matter and other matters intended by the commission to form the whole or part of the plan and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the secretary of the commission and filed in the office of the commission, identified properly by file number, and a copy of the plan or part thereof shall be certified to the council and the municipal clerk, and a copy shall be available in the office of the county recorder of deeds and shall be available at the municipal clerk's office for public inspection during normal office hours.

(L. 1963 p. 146 § 7, A.L. 1991 H.B. 487)

Powers of commission--recommendations.

89.370. The commission may make reports and recommendations relating to the plan and development of the municipality to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. It may recommend to the executive or legislative officials of the municipality programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the commission, within a reasonable time, all available information it requires for its work. The commission, its members and employees, in the performance of its functions, may enter upon any land to make examinations and surveys. In general, the commission shall have the power necessary to enable it to perform its functions and promote municipal planning.

(L. 1963 p. 146 § 8)

Planning commission to approve improvements--commission disapproval, overruled, how.

89.380. Whenever the commission adopts the plan of the municipality or any part thereof, no street or other public facilities, or no public utility, whether publicly or privately owned, and, the location, extent and character thereof having been included in the recommendations and proposals of the plan or portions thereof, shall be constructed or authorized in the municipality until the location, extent and character thereof has been submitted to and approved by the planning commission. In case of disapproval the commission shall communicate its reasons to the council, and the council, by vote of not less than two-thirds of its entire membership, may overrule the disapproval and, upon the overruling, the council or the appropriate board or officer may proceed, except that if the public facility or utility is one the authorization or financing of which does not fall within the province of the council, then the submission to the planning commission shall be by the board having jurisdiction, and the planning commission's disapproval may be overruled by that board by a vote of not less than two-thirds of its entire membership. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for, sale or lease of any street or other public facility is subject to similar submission and approval, and the failure to approve may be similarly overruled. The failure of the commission to act within sixty days after the date of official submission to it shall be deemed approval.

(L. 1963 p. 146 § 9)

(2005) Section covers all boards acquiring property and buildings in certain cities, including school boards. Board of Education v. City of Springfield, 174 S.W.3d 653 (Mo.App.S.D.).

Functions of commission.

89.390. The commission shall have and perform all of the functions of the zoning commission provided for in sections 89.010 to 89.250.

(L. 1963 p. 146 § 10)

Commission to make recommendations to council on plats, when--conflict with zoning provisions of another political subdivision, which to prevail.

89.400. 1. When the planning commission of any municipality adopts a city plan which includes at least a major street plan or progresses in its city planning to the making and adoption of a major street plan, and files a certified copy of the major street plan in the office of the county recorder of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the commission to the city council and the council has approved the plat as provided by law.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

(L. 1963 p. 146 § 11, A.L. 2007 H.B. 205 merged with H.B. 795 merged with S.B. 22 merged with S.B. 81)

Regulations governing subdivision of land, limitations, contents--public hearing--escrow funds, when released.

89.410. 1. The planning commission shall recommend and the council may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the requirements provided by law for the approval of plats, may provide requirements for the coordinated development of the city, town or village; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the city plan or official map of the city, town or village; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic; provided that, the city, town or village may only impose requirements for the posting of bonds, letters of credit or escrows for subdivision-related improvements as provided for in subsections 2 to 5 of this section.

2. The regulation may include requirements as to the extent and the manner in which the streets of the subdivision or any designated portions thereto shall be graded and improved as well as including requirements as to the extent and manner of the installation of all utility facilities. Compliance with all of these requirements is a condition precedent to the approval of the plat. The regulations or practice of the council may provide for the tentative approval of the plat previous to the improvements and utility installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the council shall accept, at the option of the developer, an escrow secured with cash or an irrevocable letter of credit deposited with the city, town, or village. The city, town, or village may accept a surety bond, and such bond shall be in an amount and with surety and other reasonable conditions, providing for and securing the actual construction and installation of the improvements and utilities within a period specified by the council and expressed in the bond. The release of any such escrow, letter of credit, or bond by the city, town or village shall be as specified in this section. The council may enforce the escrow or bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of the work and installations previous to the final approval of a plat, for an assessment or other method whereby the council is put in an assured position to do the work and make the installations at the cost of the owners of the property within the subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open spaces necessary for public uses indicated on the city plan and for appropriate means of providing for the compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a manner as is in the public interest.

3. The regulations shall provide that in the event a developer who has posted an escrow, or letter of credit, or bond with a city, town, or village in accordance with subsection 2 of this section transfers title of the subdivision property prior to full release of the escrow, letter of credit, or bond, the municipality shall accept a replacement escrow or letter of credit from the successor developer in the form allowed in subsection 2 of this section and in the amount of the escrow or letter of credit held by the city, town, or village at the time of the property transfer, and upon receipt of the replacement escrow or letter of credit, the city, town, or village shall release the original escrow or letter of credit in full and release the prior developer from all further obligations with respect to the subdivision improvements if the successor developer assumes all of the outstanding obligations of the previous developer. The city, town, or village may accept a surety bond from the successor developer in the form allowed in subsection 2 of this section and in the amount of the bond held by the city, town, or village at the time of the property transfer, and upon receipt of the replacement bond, the city, town, or village shall release the original bond in full, and release the prior developer from all further obligations with respect to the subdivision improvements.

4. The regulations shall provide that any escrow or bond amount held by the city, town or village to secure actual construction and installation on each component of the improvements or utilities shall be released within thirty days of completion of each category of improvement or utility work to be installed, minus a maximum retention of five percent which shall be released upon completion of all improvements and utility work. The city, town, or village shall inspect each category of improvement or utility work within twenty business days after a request for

such inspection. Any such category of improvement or utility work shall be deemed to be completed upon certification by the city, town or village that the project is complete in accordance with the ordinance of the city, town or village including the filing of all documentation and certifications required by the city, town or village, in complete and acceptable form. The release shall be deemed effective when the escrow funds or bond amount are duly posted with the United States Postal Service or other agreed-upon delivery service or when the escrow funds or bond amount are hand delivered to an authorized person or place as specified by the owner or developer.

5. If the city, town or village has not released the escrow funds or bond amount within thirty days as provided in this section or provided a timely inspection of the improvements or utility work after request for such inspection, the city, town or village shall pay the owner or developer in addition to the escrow funds due the owner or developer, interest at the rate of one and one-half percent per month calculated from the expiration of the thirty-day period until the escrow funds or bond amount have been released. Any owner or developer aggrieved by the city's, town's or village's failure to observe the requirements of this section may bring a civil action to enforce the provisions of this section. In any civil action or part of a civil action brought pursuant to this section, the court may award the prevailing party or the city, town or village the amount of all costs attributable to the action, including reasonable attorneys' fees.

6. Nothing in this section shall apply to performance, maintenance and payment bonds required by cities, towns or villages.

7. Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing thereon shall be held by the council.

8. The provisions of subsection 2 of this section requiring the acceptance of an escrow secured by cash or an irrevocable letter of credit, rather than a surety bond, at the option of the developer, all of the provisions of subsection 3 of this section, and the provisions of subsections 4 and 5 of this section regarding an inspection of improvements or utility work within twenty business days shall not apply to any home rule city with more than four hundred thousand inhabitants and located in more than one county.

9. Notwithstanding the provisions of section 290.210, RSMo, to the contrary, improvements secured by escrow, letter of credit, or bond as provided in this section shall not be subject to the terms of sections 290.210 to 290.340, RSMo, unless they are paid for wholly or in part out of public funds.

(L. 1963 p. 146 § 12, A.L. 1999 S.B. 20, A.L. 2004 H.B. 795, et al.)

Commission to approve plats, when.

89.420. Within sixty days after the submission of a plat to the commission, the commission shall approve or disapprove the plat; otherwise the plat is deemed approved by the commission, except that the commission, with the consent of the applicant for the approval, may extend the sixty-day period. The ground of disapproval of any plat by the commission shall be made a matter of record.

(L. 1963 p. 146 § 13)

Commission approval of plats--effects.

89.430. The approval of a plat by the commission does not constitute or effect an acceptance by the municipality or public of the dedication to public use of any street or other ground shown upon the plat.

(L. 1963 p. 146 § 14)

Approval of plats required for recording.

89.440. No county recorder shall receive for filing or recording any subdivision plat required to be approved by a city council or municipal planning commission unless the plat has endorsed upon it the approval of the city council under the hand of the clerk and the seal of the city, or by the secretary of the planning commission.

(L. 1963 p. 146 § 15)

Use of unapproved plat in sale of land--penalty--vacation or injunction of transfer.

89.450. No owner, or agent of the owner, of any land located within the platting jurisdiction of any municipality, knowingly or with intent to defraud, may transfer, sell, agree to sell, or negotiate to sell that land by reference to or by other use of a plat of any purported subdivision of the land before the plat has been approved by the council or planning commission and recorded in the office of the appropriate county recorder unless the owner or agent shall disclose in writing that such plat has not been approved by such council or planning commission and the sale is contingent upon the approval of such plat by such council or planning commission. Any person violating the provisions of this section shall forfeit and pay to the municipality a penalty not to exceed three hundred dollars for each lot transferred or sold or agreed or negotiated to be sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from this penalty. A municipality may enjoin or vacate the transfer or sale or agreement by legal action, and may recover the penalty in such action.

(L. 1963 p. 146 § 16, A.L. 2005 S.B. 210)

Public improvements, how approved after adoption of major street plan.

89.460. Upon adoption of a major street plan and subdivision regulations, the municipality shall not accept, lay out, open, improve, grade, pave or light any street, lay or authorize the laying of water mains, sewers, connections or other utilities in any street within the municipality unless the street has received the legal status of a public street prior to the adoption of a city plan; or unless the street corresponds in its location and lines with a street shown on a subdivision plat approved by the council or planning commission or on a street plan made by and adopted by the commission. The council may locate and construct or may accept any other street if the ordinance or other measure for the location and construction or for the acceptance is first submitted to the commission for its approval and approved by the commission or, if disapproved by the commission, is passed by the affirmative vote of not less than two-thirds of the entire membership of the council.

(L. 1963 p. 146 § 17)

No building permitted on streets not conforming to major street plan.

89.470. After the adoption of a major street plan, no building permit shall be issued for and no building shall be erected on any lot within the territorial jurisdiction of the commission unless the street giving access to the lot upon which the building is proposed to be placed conforms to the requirements of section 89.460.

(L. 1963 p. 146 § 18)

Establishment of building lines--board of adjustment.

89.480. Whenever a plan for major streets has been adopted, the council, upon recommendation of the planning commission, is authorized and empowered to establish, regulate and limit and amend, by ordinance, building or setback lines on major streets, and to prohibit any new building being located within building or setback lines. When a plan for proposed major streets or other public improvements has been adopted, the council is authorized to prohibit any new building being located within the proposed site or right-of-way when the center line of the proposed street or the limits of the proposed sites have been carefully determined and are accurately delineated on maps approved by the planning commission and adopted by the council. The council shall provide for the method by which this section shall be administered and enforced and may provide for a board of adjustment with powers to modify or vary the regulations, in specific cases, in order that unwarranted hardship, which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, may be avoided. If there is a board of zoning adjustment on October 13, 1963, that board shall be appointed to serve as the board of adjustment for the building line regulations. If there is no board of zoning adjustment, the personnel, length of terms, method of appointment and organization of the board of adjustment for the building line regulations shall be the same as now provided for municipal boards of zoning adjustment. The regulations of this section shall not be adopted, changed or amended until a public hearing has been held thereon as provided in section 89.360.

(L. 1963 p. 146 § 19)

Violation--penalty.

89.490. Any person violating the provisions of sections 89.300 to 89.490 is guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or by confinement in the county jail for not more than one year, or by both such fine and confinement.

(L. 1963 p. 146 § 21)

Violation of county planning, zoning and recreation order or ordinance, civil action authorized--venue, jurisdiction--costs.

89.491. 1. Any person or neighborhood organization as defined in section 32.105, RSMo, aggrieved by a violation described in this subsection may commence a civil action on his own behalf against any person who is alleged to be in violation of the provisions of chapter 64, RSMo, or this chapter, or in violation of any standard, regulation, or ordinance which has been adopted by any county or city pursuant to chapter 64, RSMo, or this chapter.

2. Venue for such actions allowed by subsection 1 of this section shall be in the circuit court in the circuit in which the violation is alleged to have occurred.

3. The appropriate circuit court, as established in subsection 2 of this section, shall have jurisdiction to enforce the standard, regulation or ordinance alleged to have been violated, to order such action as may be necessary to correct the violation, and to impose any civil penalty provided for the violation.

4. The appropriate circuit court, in issuing any final order in any action brought pursuant to this section, shall award costs of litigation, including reasonable attorney's fees, to the prevailing party.

(L. 1993 S.B. 376)

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[Missouri General Assembly](#)

PALE 12/1/05
228-4199

Missouri Revised Statutes

Chapter 89 Zoning and Planning Section 89.060

Section 7
Pg. 33-35

August 28, 2005

Change in regulations, restrictions and boundaries--procedure.

89.060. Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change duly signed and acknowledged by the owners of thirty percent or more, either of the areas 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 and eighty-five feet distant from the boundaries of the district proposed to be changed, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the legislative body of such municipality. The provisions of section 89.050 relative to public hearing and official notice shall apply equally to all changes or amendments.

(RSMo 1939 § 7416, A.L. 1988 H.B. 923)

Prior revision: 1929 § 7263

(1960) Where only one of the owners of property held by the entireties signed the petition for a protest against a zoning ordinance, the front footage of the property so held could not be counted in determining the sufficiency of the petition of protest. Accordingly, where a petition which was deficient in that the number of front footage was not represented, the board of aldermen could pass the ordinance by a mere majority vote and the ordinance was valid. *Marks v. Bettendorf's, Inc. (A.)*, 337 S.W.2d 585.

(1962) Where evidence fell short of demonstrating that two of the five aldermen voting for zoning amendment ordinance had the direct financial interest in its passage, court refused to set aside purely legislative action of city's legislative body on ground of public policy. *Coffin v. City of Lee's Summit (A.)*, 357 S.W.2d 211.

(1962) City council did not clearly, beyond reasonable doubt, act arbitrarily, capriciously or unlawfully in amending zoning ordinance to extend commercial zone and permitting bowling alley proprietor to enlarge parking lot. *Miller v. Kansas City (A.)*, 358 S.W.2d 100.

(1978) To change zoning regulations, there must be actual votes affirmatively cast by three-fourths of all councilmen existing at time of vote, and therefore, abstention cannot be considered as concurring with the majority vote in favor of amendment. *State ex rel. Stewart v. King (A.)*, 562 S.W.2d 704.

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Missouri General Assembly

TOWN OF AUGUSTA

SIGN PERMIT APPLICATION

Permit # _____

Date: _____

APPLICANT'S INFORMATION:

NAME: _____

ADDRESS: _____

PHONE NUMBER: _____

LOCATION OF SIGN PLACEMENT: _____

SIZE OF SIGN: WIDTH: _____ HEIGHT: _____

HEIGHT OF TOP OF SIGN ABOVE GRADE: _____

MATERIAL SIGN IS MADE OF: _____

METHOD OF SIGN SUPPORT: POST: _____ HANGING: _____ AFIXED TO EXISTING STUCTURE: _____

DOES APPLICANT OWN PROPERTY WHERE SIGN IS TO BE PLACED: yes () no ()

IF NOT: Owner's name: _____

Owner's address: _____

Owner's phone number: _____

APPLICANT'S SIGNATURE _____

APPLICANT'S PRINTED NAME _____

APPLICATION TO BE RETURNED TO THE ZONING COMMISSIONER WITH THE FOLLOWING ITEMS:

- A. PICTURE OR DETAIL DRAWING OF SIGN
- B. NOTARIZED APPROVAL OF PROERTY OWNER (LOCATION SIGN TO BE ERECTED)
- C. APPLICATION FEE (ON-PREMISE) \$10.00 (OFF-PREMISE) \$25.00

ZONING COMMISSIONER SHALL FORWARD APPLICATION TO TOWN BOARD FOR APPROVAL OR DENIAL

TOWN BOARD: APPROVED _____ DATE: _____
DENIED _____ DATE: _____

TOWN CLERK: _____

NOT VALID WITHOUT SIGNATURE