

Chapter 400. Zoning Regulations

Article I. General Provisions

Section 400.010. Purpose, Enactment, Title And Severability.

[Ord. No. 3121, 4-18-2016]

- A. Purpose. The Zoning Regulations and districts as herein established have been made in accordance with a comprehensive plan to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of Malden, Missouri, and to provide for efficiency, and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, and for adequate public utilities and facilities by regulating the location and use of buildings, structures, and land for trade, industry, and residence, by regulating and limiting or determining the height and bulk of buildings and structures, the areas of yards and other open spaces, and the density of use. They have been 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 value of buildings and encouraging the most appropriate use of land throughout the City of Malden, Missouri.
- B. Enactment. There is hereby established a new comprehensive Zoning Ordinance for the City of Malden, Missouri, as set forth in the text, maps and descriptions which constitute this Chapter. Said Zoning Ordinance is adopted by the authority of and for the purposes set forth in Section 89.340, Missouri State Statutes.
- C. Title. This Chapter shall be known as the "Malden Zoning Ordinance."
- D. Severability. The provisions of this Chapter are hereby declared to be severable. If any Section, paragraph, sentence, or clause of this Chapter shall be held invalid, the invalidity of such Section, paragraph, sentence, or clause shall not affect the validity of the remainder of said Chapter.

Section 400.020. Vested Rights.

[Ord. No. 3121, 4-18-2016]

- A. For the purpose of single-family residential development in the City's Residential Districts, development rights for the approved use of land shall vest upon approval by

the City Council pursuant to recording of the final plat for such land. If construction has not begun within one (1) year of recording the plat, the development rights shall expire unless an extension is granted.

- B. For all non-single-family development, development rights for the approved use of land shall vest upon approval of a Final Development Plan. If all permits required for such development have not been issued and the completion of substantial amounts of work under the validly issued permits has not begun within one (1) year of approval of the site plan, the development rights shall expire unless an extension is granted.
- C. The Planning and Zoning Commission may for good cause as presented by the applicant grant a single extension of vested rights. Vested rights for single-family development shall not be extended for more than one (1) year. For all non-single-family development, an extension of not more than six (6) months may be granted. Applicants seeking an extension shall submit a statement, in writing, justifying the extension. In considering an extension, the Planning and Zoning Commission shall consider the following factors, as well as other relevant considerations:
 - 1. Undue or unnecessary hardship placed upon the property owner;
 - 2. The extent to which the current regulations would hinder the ability to complete development;
 - 3. Unanticipated conditions which have prevented completion of the project; and
 - 4. Conformance with the general spirit and intent of the zoning and subdivision regulations.
 - 5. Nothing in this Subsection shall be construed to confer any development rights beyond those shown on approved plans submitted to the City or otherwise authorized by applicable Zoning and Subdivision Regulations.

Section 400.030. Definitions.

[Ord. No. 3121, 4-18-2016]

For the purpose of this Chapter, certain words used herein are defined. Words used in the present tense shall include the plural, and the plural the singular; the word "shall" is mandatory and not directory. The particular should control the general.

ACCESSORY BUILDING OR USE

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. An "accessory use" includes, but is not limited to, the following:

- 1. A children's playhouse, garden house, and private greenhouse.
- 2. A civil defense shelter, serving not more than two (2) families.
- 3. A garage, shed, or building for domestic storage.
- 4. Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by the district regulations.

5. A non-paying guest house or rooms for guests within an "accessory building," provided such facilities are used for the occasional housing of guests of occupants of the principal building and not for permanent occupancy by others as housekeeping units.
6. Off-street motor vehicle parking areas and loading and unloading facilities.

AGRICULTURE

The use of land for agricultural purposes. This includes necessary buildings and structures which should be used for agriculture, including, but not limited to, farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses should be secondary to that of the normal agriculture activities. Buildings occupied as residences shall not be considered to be used for agricultural purposes.

APARTMENT

A room or suite of rooms in a multiple-family structure, which is arranged, designed, used, or intended to be used as a single housekeeping unit, and which contains complete kitchen, bath, and toilet facilities, permanently installed.

BOARD OF ADJUSTMENT

A local body, appointed by the Mayor and approved by the City Council, charged with hearing appeals and authorizing variance to the requirements of this Chapter.

BOARDINGHOUSE (GROUP HOME)

A building, other than a hotel, where, for compensation and by prearrangement for definite periods, meals and/or lodging are provided for a minimum of three (3) but not more than fifteen (15) persons, but not for the public or transients. The classification shall include a single-family dwelling or single-family residence where eight (8) or fewer unrelated mentally or physically handicapped persons reside. All uses shall comply with Section 89.020, RSMo.

BUILDING

A structure that is permanently affixed to the land, has one (1) or more floors, one (1) or more exterior walls, and a roof, and is designed or intended for use as a shelter, but a "building" shall not include any vehicle, trailer (with or without wheels), nor any movable device such as furniture, machinery or equipment. The word "building" shall include the word "structure" and vice versa.

BUILDING HEIGHT

The vertical distance measured from the average elevation of the proposed or existing finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

BUILDING LINE

The line of that face of the building nearest the front, side or rear line of the lot. This face includes carports and porches, whether enclosed or unenclosed, but does not include steps.

BUILDING LINE, ESTABLISHED

That line parallel to and a specific setback distance from a front lot line, beyond which a building cannot be constructed within the required yard created.

CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall be the Building Inspector as set out in Section **400.270** of this Chapter.

COMPREHENSIVE PLAN (MASTER PLAN)

The plan or any portion thereof, adopted by the Planning and Zoning Commission pursuant to Chapter 89, RSMo., for the coordinated development of the City.

DISTRICT

A section of the municipality for which uniform regulations governing the use, height, area, and intensity of use by buildings and land, and open spaces about buildings are herein established.

DRIVE-THROUGH (ACCESSORY USE)

An accessory use that, through design, physical facilities, service or packaging procedures, encourages customers to receive services, obtain goods, or be entertained by an approved principal use while remaining in their motor vehicles. This definition shall include all drive-through establishments, drive-in restaurants and drive-in cafes.

DWELLING

Any building or portion thereof used exclusively for human habitation, except hotels, motels, dormitories, house trailers, or boardinghouses. The term "single-family dwelling" as used in this Chapter shall include any residential home, foster care home, or any similar home or residence as required by State law. The following terms associated with dwelling shall have the following meanings:

1. **APARTMENT**

Room or suite of rooms within a building arranged, intended or designed for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

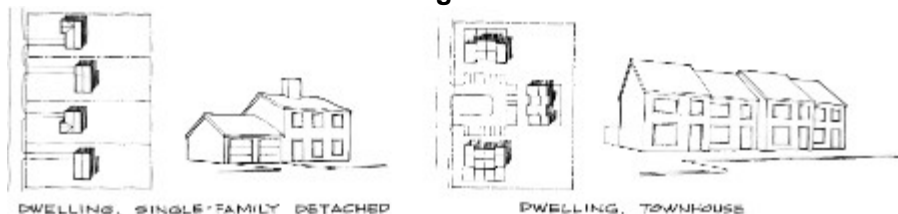
2. **LOFT**

A dwelling located above the first floor of a non-residential use such as a store or office.

3. **SINGLE-FAMILY ATTACHED DWELLING (DUPLEX)**

A dwelling situated on one lot occupied exclusively by two (2) families, respectively, in separate dwelling units living independently of each other.

These drawings illustrate the differences between single-family detached dwellings and townhouses.



4. **TOWNHOUSE**

A group of three (3) or more dwellings situated on one (1) lot occupied by families in separate dwelling units living independently of each other.

5. **SINGLE-FAMILY ATTACHED DWELLING (VILLA)**

Single-family dwellings sharing a common wall but situated on separate lots each with a private exterior entrance and designed to be owned and occupied exclusively by separate families with no other dwelling unit located above or below another.

FAMILY

One (1) or more persons who are related by blood, marriage, or adoption (including foster care), living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than three (3) persons living together by joint agreement occupying a single housekeeping unit with single kitchen facilities, on a non-profit cost-sharing basis, subject to any exceptions as may be required by law.

FINANCIAL SERVICES

An office establishment or business that primarily performs central banking functions and accepts deposits and lends funds from these deposits. Such establishment may include these services to patrons and customers through an accessory drive-through, when permitted. Uses include banks; savings associations; savings and loan institutions; investment banking; brokerage for securities or commodities; credit reporting services; certified financial planning; accounting; auditing; bookkeeping; credit service offices, including credit unions; holding and investment services; savings and loans association offices; and consumer and mercantile credit reporting services. Financial services does not include pawn shops, businesses primarily engaged in check cashing or issuing money orders or title loan establishments or other businesses offering short-term consumer loans secured by personal property, certificates of title to such property, estimated tax refunds or other such collateral (all of which are prohibited money changing/money brokering uses). (See also "payday loan establishment.")

FOOD TRUCK

A food truck is a mobile, fully self-contained unit with valid State of Missouri registration that sells only food and/or beverages (non-alcoholic) and that utilizes no outside cooking area. Mobile food vendors which stop for less than or equal to thirty (30) minutes at a single location shall not be considered food trucks.

HOME OCCUPATION

An accessory use to a single-family residence where a business activity is carried on by no more than two (2) members of a family residing on the premises and providing that, except as otherwise provided by law, there are no signs or any display that will indicate from the exterior of the building that it is being utilized, in whole or in part, for any purpose other than that of a dwelling; providing also, that there is no stock in trade or commodity sold upon the premises, no person is employed other than a member of the family residing on the premises, and no mechanical equipment is used except such as is customary for purely domestic or household purposes.

LOT LINE

A boundary or property line of a lot.

LOT WIDTH

The dimension of a lot, measured between side lot lines on the building line.

LOT, COMMERCIAL

A parcel of land unoccupied, occupied, or intended for occupancy by a use permitted in this Chapter, including one (1) or more main buildings together with its accessory buildings, open spaces, loading space and parking spaces required by this Chapter, and abutting upon a public right-of-way, upon a road, street, or private driveway.

LOT, RESIDENTIAL

A parcel of land, unoccupied or occupied, platted for the purposes of construction of one (1) residence together with its accessory buildings, open spaces, and parking spaces required by this Chapter per platted lot. The parcel shall be bounded on the front by a public street or road and on the rear by an alley and shall comply with other requirements set forth herein.

MANUFACTURED HOME

Structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

MANUFACTURED HOME PARK

A contiguous parcel of land which has been developed for the placement of two (2) or more manufactured homes as defined herein and is owned by an individual, a firm, trust, partnership, public or private association or corporation in accordance with the requirements of this Code.

MOBILE HOME

A transportable, factory-built structure designed to be used as a single dwelling unit that was manufactured prior to June 15, 1976, and that does not bear a seal as provided by the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401).

MODULAR HOME OR UNIT

A transportable building unit designed to be used by itself or to be incorporated with similar units at a point-of-use into a modular structure to be used for residential, commercial, educational or industrial purposes. This definition shall not apply to structures under six hundred fifty (650) square feet used temporarily and exclusively for construction site office purposes.

NON-CONFORMING LAND USE OR STRUCTURE

A land use or structure which existed lawfully on the date this Chapter or any amendment thereto became effective but, because of such adoption or amendment of this Chapter, fails to conform to one (1) or more of the applicable regulations of this Chapter as amended.

NON-CONFORMING LOT

A lot of record that existed lawfully whether by variance or otherwise, on the effective date of the adoption of this Chapter or any amendment thereto but, because of such adoption or amendment of this Chapter, fails to conform to the applicable area, width, depth or other regulations related to lot dimension of this Chapter as amended.

NUISANCE

An unreasonable interference with the enjoyment or use of property.

NURSING HOME

A building intended for use as a medical care facility for persons who need nursing care and medical service but do not require intensive hospital care. Includes assisted living and convalescent care facilities.

PAWNBROKER or PAWNSHOP

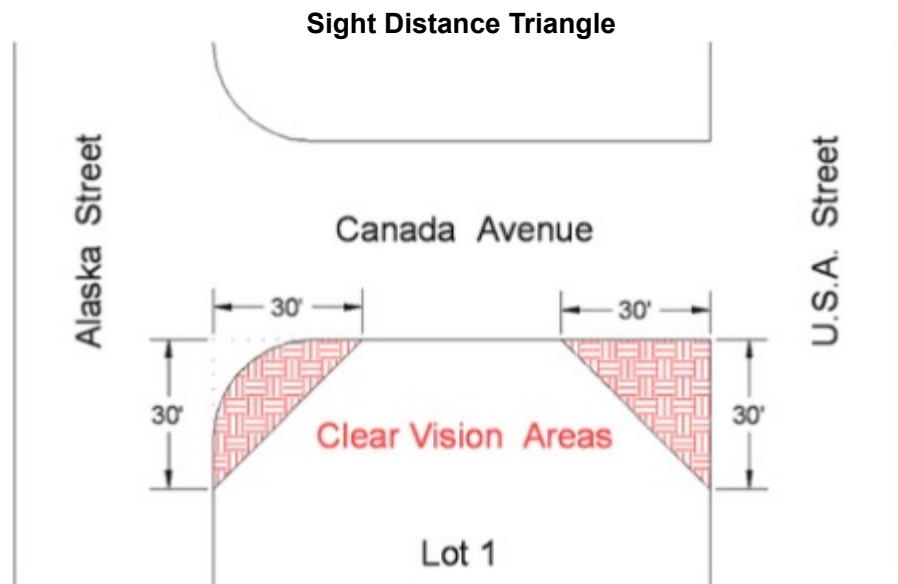
An establishment or individual or business entity which lends money on the deposit or pledge of physically delivered personal property, other than property the ownership of which is subject to a legal dispute, securities, printed evidence of indebtedness or printed evidence of ownership of the personal property, or who deals in the purchase of such property on the condition of selling the property back again at a stipulated price. The business of a pawnbroker does not include the lending of money on deposit or pledge of title to property.

PAYDAY LOAN ESTABLISHMENT

An establishment that engages in transactions in which a short-term cash advance is made to a consumer in exchange for a customer's post-dated check in the amount of the advance plus a fee, or in exchange for a consumer's authorization to debit a transaction account in the amount of the advance plus a fee at a designated future date. Uses include check cashing stores. The classification does not include a State or Federally chartered bank, savings association, credit union, or industrial land company. Further, this classification does not include establishments selling consumer goods where the cashing of checks or money orders is incidental to the main purpose of the business.

SIGHT DISTANCE TRIANGLE

The triangular area of a corner lot bound by the property lines and a line connecting the two (2) points on the property lines thirty (30) feet from the intersection of the property lines in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision, also known as "clear vision areas."



SIGN

A name, identification, description, display, or illustration which is affixed to, or points out, a building, structure, or tract of land, and which directs attention to an object, product, place, person, service, activity, institution, organization or business.

SINGLE-FAMILY DETACHED DWELLING

A dwelling situated on one (1) lot designed to be occupied exclusively by one (1) family.

STORY

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

STREET

A public or private way which affords principal means of access to abutting properties.

STRUCTURE

Anything constructed or erected and used or intended for supporting or sheltering any use or occupancy.

TITLE LOAN ESTABLISHMENT

Any person, entity or business that lends money to a borrower and in exchange retains physical possession of the state-issued certificate of title to the personal property of the borrower.

USE

The specific purpose of which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

VARIANCE

A modification or variation of the provisions of this Chapter as applied to a specific piece of property and approved by the Board of Adjustment.

YARD

A space on the same lot with a principal building, open, unoccupied, and unobstructed by structures, except as otherwise provided.

YARD, FRONT

A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar structures, the depth of which is the least distance between the front lot line and the building line.

YARD, REAR

A yard extending across the full width of the lot between the rear of the principal building and the rear lot line unoccupied other than by accessory building which does not occupy more than thirty percent (30%) of the required space, and steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the rear lot line and the rear of such principal building.

YARD, SIDE

A yard between the principal building and the side lot line, extending from the front yard or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at ninety degrees (90°) with the side lot line, from the nearest part of the principal building.

Article II. Districts And Zoning Map

Section 400.040. Establishment Of Zoning Districts.

[Ord. No. 3121, 4-18-2016]

- A. In carrying out the provisions of Sections 89.010 through 89.140 of the Missouri State Statutes, the Planning and Zoning Commission and the City Council of Malden, Missouri, have divided the City into districts and have prepared regulations pertaining to such districts 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 the health, morals, and general welfare; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- B. Such regulations have been made with reasonable consideration, among other things, as to the character of the area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land through the City.
- C. Symbols, titles, and a brief description of each of the zones established by this Chapter are as follows:
 1. Residential Districts.
 - a. "R-1" Single-Family Dwelling District.
 - b. "R-2" Multiple-Family Dwelling District.
 - c. "MH" Manufactured Home District.
 2. Commercial Districts.
 - a. "C-1" Business Districts.
 - b. "C-2" Business Districts.
 3. Commercial-Residential Districts.
 - a. "C-R" Commercial-Residential District.
 4. Industrial Districts.
 - a. "I-1" Light Industrial District.
 - b. "I-2" Heavy Industrial District.
 - c. "I-C" Industrial District.

Section 400.050. Zoning Map.

[Ord. No. 3121, 4-18-2016]

- A. The districts shown above and the boundaries of such districts are shown upon the Zoning Map accompanying and made a part of this Chapter, being designated as the "Official Zoning Map," and said Map and all the notations, references, and other information shown thereon shall be as much a part of this Chapter as if the matters and information set forth by said Map were all fully described herein, except as hereinafter provided.
- B. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever nature by any person or persons shall be considered a violation of this Chapter and punishable as provided under Section **400.300** of this Chapter.

Section 400.060. Boundaries Of Districts.

[Ord. No. 3121, 4-18-2016]

- A. Where uncertainty exists with respect to the boundaries of the various districts as shown on the "Official Zoning Map" accompanying and made a part of this Chapter, the following rules shall apply:
 - 1. The district boundaries are the centerlines of streets or alleys, railroads or other rights-of-way unless otherwise shown, and where the districts designated on the Map accompanying and made a part of this Chapter are bounded approximately by street or alley lines, said street or alley centerline shall be construed to be the boundary of such district.
 - 2. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the districts designated on the Map accompanying and made a part of this Chapter are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the Map. Where district lines are fixed by dimensions, individual owners of lots split by such district lines will be permitted a tolerance of twenty-five (25) feet in the use of said lots.
- B. Unless otherwise clearly defined by streets, alleys, lots, drainage course or other definite means, the district boundary lines on the Map accompanying and made a part of this Chapter shall be determined by use of the scale contained on such Map.

Article III. Newly Annexed Territory

Section 400.070. Annexation — Generally.

[Ord. No. 3121, 4-18-2016]

All territory hereafter annexed to the City of Malden shall be automatically classified as "R-1" Single-Family, until such territory is permanently zoned by the City Council of the City of Malden. The City Council shall, as soon as practicable after annexation, undertake to establish permanent zoning of said territory in accordance with the provisions for amendment of this Chapter.

Article IV. District Regulations

Section 400.080. "R-1" Residential District.

[Ord. No. 3121, 4-18-2016]

A. Within the "R-1" Residential District, the following regulations shall apply:

1. Permitted uses in "R-1" Residential Districts shall be as follows:
 - a. Single-family detached dwelling units, limited to no more than one (1) unit per platted lot, including all lots platted prior to the adoption of this Chapter (March 24, 2016).
 - b. Home occupations and home occupation signs as defined in Section **400.030**.
 - c. Schools, churches, libraries, fire houses, public and private open space and recreational facilities, and related activities.
 - d. Private swimming pools, if they meet setback requirements for principal buildings in the district.
 - e. Accessory buildings as defined in Section **400.030**.
 - f. Except as otherwise permitted by law, no signs shall be permitted on residential premises except building street numbers and name plate signs.
2. Conditional uses permitted in the "R-1" District shall be as follows:

[Ord. No. 3199, 5-20-2019]

 - a. Single-family attached villas [limited to two (2) dwellings per structure].
 - b. Duplexes [limited to two (2) dwellings per structure].
 - c. Boardinghomes/group homes as defined in Section **400.030** and as permitted by law.
3. Prohibited uses.
 - a. Any business except home occupations.
 - b. Any industry.
 - c. Advertising and commercial signs, other than those permitted in Subsection **(A)(1)** above.
4. Lot size.
 - a. Every single-family detached dwelling lot shall have an area of not less than eight thousand (8,000) square feet and a width at the established building line of not less than seventy-five (75) feet and a minimum depth of not less than one hundred six (106) feet.

[Ord. No. 3199, 5-20-2019]

- b. Churches.
 - (1) New Construction. New construction shall have a lot area of not less than two (2) acres and shall meet off-street parking requirements of Article VII. Required parking area in excess of a two-acre lot may be separated from the balance of the property by a street or alley. All property must be contiguous.
 - (2) Relocating Into Existing Building. Relocating into an existing building shall meet off-street parking requirements of Section **400.230**. Parking area may be separated from the balance of the property by a street or alley. All property must be contiguous.
5. Setback Lines.
- a. Front Yard. Not less than twenty (20) feet. In the case of double frontage lots, corner lots or through lots, there shall be a front yard along each street.
 - b. Side Yard. Not less than ten (10) feet on either side, except when Subsection (A)(5)(a) above applies.
 - c. Rear Yards. Not less than ten (10) feet.
6. Height.
- a. Single-Family Detached Dwelling. Not more than thirty (30) feet plus a roof.
 - b. Churches. Not more than fifty (50) feet for towers or the building.
7. Manufactured Homes. Manufactured homes, as defined in Section **400.030**, may be located within the "R-1" District provided they already existed prior to the adoption of this Chapter. When so located, existing manufactured homes shall comply with the same setback requirements as single-family residences. Existing manufactured homes owned and occupied by persons who also own the lot said manufactured home is located on may be replaced or expanded to the extent permitted by this Chapter. Manufactured homes that are not owner-occupied are limited to the one-time replacement via a Conditional Use Permit and subject to all other requirements of this Chapter.

Section 400.090. "R-2" Residential District.

[Ord. No. 3121, 4-18-2016]

A. With the "R-2" Residential District, the following regulations shall apply:

- 1. Permitted Uses.
 - [Ord. No. 3199, 5-20-2019]
 - a. Any uses permitted in Section **400.080**, "R-1" Residential District.
 - b. Single-family attached villas [limited to two (2) dwellings per structure].
 - c. Duplexes [limited to two (2) dwellings per structure].

2. Conditional Uses.
 - a. Triplexes, townhomes and condominiums.
 - b. Apartments.
 - c. Nursing homes.
 - d. New modular homes meeting the following criteria:
[Ord. No. 3199, 5-20-2019]
 - (1) Compliant with all local and State building codes.
 - (2) Compliant with all occupancy codes.
 - (3) No less than eight hundred (800) square feet of living space.
 - e. New manufactured homes meeting the following criteria:
[Ord. No. 3199, 5-20-2019]
 - (1) Accompanied by an original bill of sale dated not more than six (6) months prior to the date of application;
 - (2) Structurally sound in compliance with the provisions of this Code;
 - (3) No less than twenty (20) feet in width;
 - (4) Compliant with all applicable occupancy codes;
 - (5) Placed on an enclosed permanent foundation of concrete, brick, or masonry; and
 - (6) Compliant with minimum standards for tie-downs as set by the Missouri Public Service Commission.
 - f. Boardinghomes/group homes as defined in Section **400.030** and as permitted by law.
3. Prohibited Uses. Any uses prohibited in Section **400.080(A)(3)** "R-1" Residential District.
4. Lot Size.
 - a. Every single-family detached dwelling, two-family dwelling or multiple-family dwelling lot shall have a lot area of not less than six thousand (6,000) square feet and a width at the established building line of not less than sixty (60) feet.
 - b. Multiple-family dwellings shall not exceed one (1) dwelling unit or apartment for each one thousand five hundred (1,500) square feet of lot area.
5. Setback Lines.
 - a. Front Yard. Not less than twenty (20) feet. In the case of double frontage lots, corner lots or through lots, there shall be a front yard along each street.
 - b.

Side Yard. Not less than ten (10) feet on each side, except when Subsection **(A)(5)(b)** above applies.

c. Rear Yard. Not less than fifteen (15) feet.

Section 400.100. "MH" Manufactured Home District.

[Ord. No. 3121, 4-18-2016]

A. Purpose. The purpose of this district is to provide for the development of manufactured home parks and to:

1. Bring about manufactured home developments which are an asset to the community and to prevent the development of those which would be a detriment to the community.
2. To promote manufactured home developments while maintaining the character of residential neighborhoods.
3. To protect the health, safety, and welfare of manufactured home residents and the surrounding community.
4. To harmonize this type of residential development with other existing and proposed land uses.
5. To ensure adequate service by essential public facilities and services such as roads, police, water and sewers, drainage structures; or that the persons or agencies responsible for the management of the manufactured home development shall be able to provide adequately such services; further, that the establishment of any manufactured home development shall not equal excessive expense for public facilities and services.

B. Permitted Uses. Manufactured homes and modular homes as defined in Section **400.030**.

C. Bulk Requirements:

"MH" Manufactured Home Park District Regulations		
Minimum District Area		2 acres
Minimum Lot Area		Every lot or parcel of land occupied by a manufactured home shall contain not less than 5,000 square feet
Yard/Setback	Front	20 feet. There shall be 8 feet between any manufactured home and any sidewalk or local drive within such development (park)
	Side	10 feet. There shall be 8 feet between any manufactured home and any sidewalk or local drive within such development (park)
	Rear	20 feet. There shall be 8 feet between any manufactured home and any sidewalk or local drive within such development (park)

- D. General Requirements. All development shall comply with the following.
1. Building Permit. Any structure erected or expanded within a manufactured home development; including any structures to be erected or expanded on any manufactured home site therein, shall require a building permit to be issued by the City Code Enforcement Officer, and shall meet all regulations of this Chapter and the building code.
 2. Application Of Regulations. A manufactured home unit shall not be permitted to occupy a site either initially when brought into a development or upon addition or replacement which violates the yard requirements, area requirements, or minimum distances between units except in non-conforming manufactured home parks within this district.
 3. Periodic Inspection. The Code Enforcement Officer or any other agents authorized by the City are hereby granted the power and authority to enter upon the premises of any such development at any time for the purpose of determining and/or enforcing any provision or provisions of this Chapter or any other City ordinance applicable to the conduct and operation of manufactured home developments.
 4. Site Plan Review. Site Plan Review by the Planning and Zoning Commission and approval by the City Council is required prior to issuance of building permits. In those instances where the lots within a manufactured home development are to be recorded for sale purposes, the approval of a preliminary plat by the Planning and Zoning Commission shall constitute compliance with this requirement.
- E. Off-Street Parking. Two (2) off-street parking spaces shall be provided for each dwelling unit. In no case shall the paved area designated for the required off-street parking encroach upon the street right-of-way. (See Article VII for off-street parking and loading requirements.)
- F. Public Sanitary Sewer Required. In no case shall any manufactured home development be approved where the development will not be connected to or provided with a public sanitary sewer system.
- G. Effect Of Regulations. In their interpretation and application, the provisions of this Section shall be considered minimum requirements adopted for the promotion of the public health, safety, and welfare of Malden. However, recognizing the pre-manufactured nature of manufactured home units, it is recognized that lots exceeding the minimum yard and area requirements of this Section may be required to accommodate some units, and that suitable provision shall be made by potential developers of such manufactured home developments in their advance planning to provide for such units. Based upon this guideline, the fact that the size of a particular manufactured home unit, or class of manufactured home units, are such that a violation of any of the minimum yard or area requirements would be created, this in itself shall not be considered an adequate basis for the granting of a variance from such requirements.
- H. Landscaping Required.
1. Transition Strip. A transition strip of trees and shrubs not less than twenty (20) feet in width shall be located and maintained along all boundaries of such developments, excepting at established entrances and exits serving such development. Said transition strip shall be of such density as to totally obscure all

visible evidence of the development from adjoining property. In lieu of this transition strip, the developer may install a solid fence of plastic materials which shall be a minimum of eight (8) feet in height.

2. Landscape Plan. An organized landscape plan for the entire development shall be prepared as a separate document and submitted to the Planning and Zoning Commission during the required Site Plan Review for their review and approval. The Commission may either approve, approve with specific revisions or corrections or reject the submitted landscape plan.
3. Landscape Maintenance. Any and all plantings in the development shall be hardy plant materials and maintained thereafter in a neat and orderly manner. Withered and/or dead plant material shall be replaced within a reasonable period of time but no longer than one (1) growing season, as reflected upon the approved Landscape Plan.
4. Orientation Of Manufactured Homes Upon Lots. All manufactured homes within manufactured home developments regulated by the requirements of this Chapter shall be placed upon their individual lots in such a fashion that the long axis of the manufactured home shall face the principal street frontage upon which the lot itself faces. In the case of corner lots, the manufactured home may face either street frontage. In the case of double-frontage lots, access shall be restricted to minor streets and not permitted upon collector or arterial streets.

I. Public Improvements.

1. Sanitary Sewerage And Water Facilities. Sanitary sewerage and water facilities shall be of such capacity as to serve all users of the development at peak periods. All lines shall be suitably sized and stubbed out to the manufactured home locations to provide for future extension of the City's sanitary sewerage and water systems for the respective areas remaining to be served. Water meters shall be provided at each manufactured home location.
2. Storm Drainage Facilities. Storm drainage facilities shall be so constructed as to protect those that will reside in the manufactured home development, as well as the property owners adjacent to the development. Such facilities shall be of such capacity to ensure rapid and safe drainage of storm water and prevent the accumulation of stagnant pools of water in or adjacent to the development. Where topographical conditions warrant same, detention ponds shall be installed.
3. Streets And Driveways. All roads, driveways, motor vehicle parking spaces shall be paved and constructed as to handle all anticipated peak loads, and adequately drained and lighted for safety and ease of movement of pedestrians and vehicles. All roads and driveways shall have curbs and gutters and must conform to all specifications given in Chapter **410**, Subdivision Regulations.
4. Sidewalks. Sidewalks not less than four (4) feet in width shall be required on both sides of all arterial and collector streets and on one side of all minor streets and culs-de-sac.
5. Electrical. All electrical wiring must be underground and in conduit.
6. Construction Plans Required. All improvements, whether public or private, must conform to all standards, and specifications of the City. Engineering drawings of all

such improvements shall be submitted to, and reviewed, and approved by the City prior to the authorization to proceed with the construction of said improvements.

J. Manufactured Home Setup Requirements.

1. **Manufactured Home Stands.** Each manufactured home shall be provided with a stand consisting of either a solid concrete pad not less than six (6) inches thick and not less than the length and width of the manufactured home that will use the site, or piers of fourteen (14) inches in diameter, thirty (30) inches deep, and placed on six-foot centers. The stand shall be so constructed, graded, placed and maintained to be durable and adequate for the support of the maximum anticipated load during all seasons.
2. **Blocks And Tie-Downs.** Each manufactured home shall be supported on uniform jacks or locks and tied down as required by State law.
3. **Skirting.** Uniform skirting of each manufactured home base shall be required, within thirty (30) days after initial placement, such skirting shall be masonry material and so constructed and attached to this manufactured home so as to deter and prevent entry of rodents and insects. Storage of goods and articles underneath any manufactured home or out of doors at any manufactured home site shall be prohibited.
4. **Underground Lines.** All electric, telephone, and other lines from supply lines outside the park or other sources to each manufactured home site shall be underground and in conduit.
5. **Sanitary Sewer And Water Connections.** All water and sanitary sewerage facilities, including the connection to all manufactured home sites, shall be constructed so that all facilities and lines are protected from freezing, from bumping, or from creating any type of nuisance or health hazard. Such connections shall not exceed ten (10) feet in length above ground.

K. Non-Conforming Manufactured-Home Parks. Where, on the date of adoption or amendment of this Chapter, a lawful manufactured home park existed that is no longer permissible under the provisions of this Chapter, such manufactured home park may continue so long as it remains otherwise lawful subject, to the following provisions.

1. **Violations Not Validated.** A non-conforming manufactured home park in violation of a provision of the ordinance which this repeals shall not be validated by the adoption of this Chapter.
2. **Enlargement.** No such non-conforming manufactured home park shall be enlarged, expanded or extended to occupy a greater area of land than was occupied on the date of adoption or amendment of this Chapter and no additional accessory use, building, or structure shall be established thereon unless in complete compliance with the requirements of this Chapter. Nor shall the manufactured homes within the existing site be rearranged to increase their number or density within the existing confines of the park.
3. **Relocation.** No such non-conforming manufactured home park shall be moved in whole or in part to any other portion of such parcel or lot not so occupied on the date of adoption of this Chapter or to a parcel or lot not in conformance with this Chapter.

4. Destruction. Should any such non-conforming manufactured home park be destroyed by any means to an extent of fifty percent (50%) or more of its replacement, it shall not be reconstructed except in conformity with the requirements of this Chapter.
5. Discontinuance. If such non-conforming manufactured home park ceases for any reason for a period of more than ninety (90) consecutive days (except where Government action causes such cessation) the subsequent use of such parcel or lot shall conform to the regulations and provisions set by this Chapter for the district in which such parcel or lot is located.
6. Ownership. All non-conforming manufactured home parks shall remain in one (1) ownership and primarily designed for the purpose of renting spaces for the placement of manufactured home dwelling units. In no instance shall a non-conforming manufactured home park be sold as lots for permanent manufactured home residence.
7. Registry. Each non-conforming manufactured home park shall maintain an up-to-date registry of each manufactured home unit and site, showing the length, width, and area of the site. The registry shall be open to inspection by the Code Enforcement Officer.
8. Limitation On Permitted Uses. Within all non-conforming manufactured home parks, the permitted uses of such park shall be limited to the following:
 - a. Manufactured homes.
 - b. Accessory buildings or structures under park management supervision shall be used only as office space, storage, laundry facilities, recreation facilities, garage storage or other necessary service for park resident use only. No accessory building or structure shall exceed twenty-five (25) feet in height, nor two (2) stories; and shall meet the requirements of the City of Malden Building Code.
 - c. Signs as regulated by this Code.
9. Minimum Distance. Within all non-conforming manufactured home parks the minimum distances maintained between manufactured homes shall be in conformity with the requirements of the adopted City Building and Fire Codes, applicable State laws, or a development plan previously approved by the City of Malden, whichever standard being the more restrictive.
10. Park Maintenance. Park owners and management are required to maintain the physical and natural facilities and features of the park in a neat, orderly, and safe condition.
11. Parking. No parking area or parking space which exists at the time this Chapter becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Chapter shall thereafter be relinquished or reduced in any manner.
12. Existence Of A Non-Conformity. In cases of doubt, and on specific questions raised concerning whether a manufactured home park has non-conforming status, or if an element of such park has non-conforming status, it shall be treated as a question

of fact and shall be decided by the Mayor and City Council upon receipt of a report and recommendation on the matter from the Planning and Zoning Commission.

Section 400.110. "C-1" Business District.

[Ord. No. 3121, 4-18-2016]

- A. Within the "C-1" Business District, the following regulations shall apply:
1. Permitted uses.
 - a. Existing single-family, two-family, or multiple-family dwellings.
 - b. Retail sales.
 - c. Personal, professional, and medical services.
 - d. Offices.
 - e. Gasoline service stations.
 - f. Eating places (indoor).
 - g. Preparation of bakery and food products sold retail entirely from the premises.
 - h. Civic or fraternal clubs or lodges.
 - i. Parking lots.
 - j. Accessory buildings as defined in Section **400.030**.
 - k. Residential or outpatient treatment of alcohol and/or drug abuse, if it meets the following conditions:
 - (1) If a residential facility, not more than ten (10) persons residing in the building at one time.
 - (2) The exterior appearance of the treatment facility shall reasonably conform to the exterior appearance of other dwellings in the vicinity.
 - (3) A treatment facility shall not be located closer than one hundred (100) feet to any other substance abuse treatment facility.
 2. Prohibited Uses.
 - a. Drive-in eating facilities serving customers in automobiles.
 - b. Any use (except parking lots) not entirely enclosed within building.
 - c. Any industry.
 - d. Building repair and building maintenance services.
 - e. Construction companies.

- f. Any principal use specifically permitted in Sections **400.130** and **400.140**, Industrial Districts.
- 3. Setback Lines.
 - a. Front Yard. None required.
 - b. Side Yard. None required, except where the lot abuts an "R" District, in which case the side yard setback shall be not less than twenty-five (25) feet.
 - c. Rear Yard. None required.
- 4. Height. No building shall exceed thirty-five (35) feet in height, plus a roof.
- 5. Service Vehicle Access. See Section **400.240** for off-street loading zones and service area requirements.
- 6. Manufactured Homes. Preexisting manufactured homes, as defined in Section **400.030**, may be located within the "C-1" District provided they already existed prior to the adoption of this Chapter. When so located, existing manufactured homes shall comply with the same setback requirements as single-family residences. Existing manufactured homes owned and occupied by persons who also own the lot said manufactured home is located on may be replaced or expanded to the extent permitted by this Chapter. Manufactured homes that are not owner-occupied are limited to the one-time replacement via a conditional use permit and subject to all other requirements of this Chapter.

Section 400.120. "C-2" Business District.

[Ord. No. 3121, 4-18-2016]

- A. Within the "C-2" Business District, the following regulations shall apply:
 - 1. Permitted Uses.
 - a. Any use permitted in Section **400.110(A)(1)(a) – (k)**, "C-1" Business District.
 - b. Drive-in facilities serving customers in automobiles.
 - c. All other retail businesses.
 - d. Wholesale sales.
 - e. Building improvement products, repairs, and maintenance services. Lumberyards.
 - f. Parking lots.
 - g. Hotels, motels.
 - h. Printing, publishing.
 - i. Accessory buildings as defined in Section **400.030**.

- j. Residential or outpatient treatment of alcohol and/or drug abuse, if it meets the following conditions:
 - (1) If a residential facility, not more than ten (10) persons residing in the building at one (1) time.
 - (2) The exterior appearance of the treatment facility shall reasonably conform to the exterior appearance of other dwellings in the vicinity.
 - (3) A treatment facility shall not be located closer than one hundred (100) feet to any other substance abuse treatment facility.
- 2. Prohibited Uses.
 - a. Assembly or processing and finishing of materials for sale.
 - b. Any activity not entirely conducted in an enclosed building, except for automobile, trailer, and nursery product sales, farm implements, outdoor recreational facilities, and parking lots.
 - c. Any principal use specifically permitted in Sections **400.130** and **400.140**, Industrial Districts.
- 3. Setback Lines.
 - a. Front Yard. Not less than twenty-five (25) feet.
 - b. Side Yard. None required, except where the lot abuts an "R" District, in which case the side yard setback shall be not less than twenty-five (25) feet.
 - c. Rear Yard. Not less than twenty (20) feet, except where vehicles are stored, loaded, or unloaded under a roof, in which case the rear yard setback shall be not less than five (5) feet.
- 4. Service Vehicle Access. See Section **400.240** for off-street loading zones and service area requirements.
- 5. Manufactured Homes. Preexisting manufactured homes, as defined in Section **400.030**, may be located within the "C-2" District provided they already existed prior to the adoption of this Chapter. When so located, existing manufactured homes shall comply with the same setback requirements as single-family residences. Existing manufactured homes owned and occupied by persons who also own the lot said manufactured home is located on may be replaced or expanded to the extent permitted by this Chapter. Manufactured homes that are not owner-occupied are limited to the one-time replacement via a conditional use permit and subject to all other requirements of this Chapter.

Section 400.125. "C-R" Commercial-Residential District.

[Ord. No. 3163, 10-16-2017]

- A. Within the "C-R" District, the following regulations shall apply:
 - 1. Permitted Uses.

- a. Any use permitted in Section **400.110(A)(1)(a)** through **(k)**, "C-1" Business District, subject to setback lines, height restrictions, and service vehicle access contained within that Section.
 - b. Any use permitted in Section **400.120(A)(1)(a)** through **(j)**, "C-2" Business District, subject to setback lines and service vehicle access contained within that Section.
 - c. Any use permitted in Section **400.080(A)(1)(a)** through **(e)**, "R-1" Residential District, subject to lot size, setback line, and height restrictions contained within that Section.
 - d. Any use conditionally permitted in Section **400.080(A)(2)(a)** through **(d)**, "R-1" Residential District, subject to lot size, setback line, and height restrictions contained within that Section.
 - e. Any use permitted in Section **400.090(A)(1)(a)** through **(c)**, "R-2" Residential District, subject to lot size and setback line restrictions contained within that Section.
 - f. Any use conditionally permitted in Section **400.090(A)(2)(a)** through **(e)**, "R-2" Residential District, subject to lot size and setback line restrictions contained within that Section.
 - g. Loft Apartments.
 - h. Apartment Buildings.
2. Prohibited Uses.
 - a. Any use not expressly authorized by this Section.

Section 400.130. "I-1" Light Industrial District.

[Ord. No. 3121, 4-18-2016]

- A. Within the "I-1" Light Industrial District, the following regulations shall apply:
 1. Permitted Uses.
 - a. Preparation of food products; bottling plants.
 - b. Warehousing.
 - c. Assembly, processing and finishing of materials or products.
 - d. Transfer and transportation terminals.
 - e. Accessory buildings as defined in Section **400.030**.
 2. Prohibited Uses.
 - a. Processing Of Raw Materials.

- b. All uses permitted in Residential and Commercial Districts.
 - c. Any use that produces excessive smoke, dust, odor, gases, or noise.
3. Setback Lines.
- a. Front Yard. Not less than thirty (30) feet.
 - b. Side Yard. Not less than twenty (20) feet.
 - c. Rear Yard. Not less than twenty (20) feet.
 - d. Yards Adjacent To Residential Districts. All buildings on lots abutting Residential Districts shall provide yard widths of fifty (50) feet.
4. Height. No building shall exceed fifty (50) feet in height, plus a roof, above the ground.

Section 400.135. "I-C" Industrial District.

[Ord. No. 3174, 5-21-2018]

A. Within the "I-C" District, the following regulations shall apply:

- 1. Permitted Uses.
 - a. Any use permitted in Section **400.110(A)(1)(a)** through **(k)**, "C-1" Business District, subject to setback lines, height restrictions, and service vehicle access contained within that Section.
 - b. Any use permitted in Section **400.120(A)(1)(a)** through **(j)**, "C-2" Business District, subject to setback lines and service vehicle access contained within that Section.
 - c. Any use permitted in Section **400.130(A)(1)(a)** through **(e)**, "I-1" Light Industrial District, subject to setback lines and height restrictions contained within that Section.
- 2. Prohibited Uses.
 - a. Any use not expressly authorized by this Section.

Section 400.140. "I-2" Heavy Industrial District.

[Ord. No. 3121, 4-18-2016]

A. Within the "I-2" Heavy Industrial District, the following regulations shall apply:

- 1. Permitted Uses.
 - a. Any use permitted in Section **400.130(A)(1)(a)** through **(e)**, "I-1" Light Industrial District.
 - b. Production and treatment of raw materials.

- c. Business or industry requiring outdoor activity or storage.
 - d. All other industrial activities not allowed in more restrictive districts.
 - e. Accessory buildings as defined in Section **400.030**.
2. Conditional Uses.
- a. All residential uses when located at the Malden Air Base and as approved by the City Council.
3. Prohibited Uses. All uses permitted in Residential or Commercial Districts.
4. Setback Lines.
- a. Front Yard. Not less than thirty (30) feet.
 - b. Side Yard. Not less than fifty (50) feet.
 - c. Rear Yard. Not less than fifty (50) feet.
 - d. Yards Adjacent To Residential Districts. All buildings on lots abutting Residential Districts shall provide building setback of one hundred (100) feet.
5. Height. No building shall exceed eight (8) stories or eighty-five (85) feet in height.

Article V. General Provisions, Exceptions And Modifications

Section 400.150. Yard Requirements Of Accessory Buildings.

[Ord. No. 3121, 4-18-2016]

The minimum yard requirements shall also apply to accessory buildings. However, accessory buildings may be located to within five (5) feet of a rear or side of the lot line in the "R-1" and "R-2" Districts. In "I-1" and "I-2" Districts, the distance of the accessory building from the lot line shall be ten (10) feet.

Section 400.160. Attachment Of Accessory Buildings To Principal Buildings.

[Ord. No. 3121, 4-18-2016]

When an accessory building is attached to the principal building by a breezeway, passageway, or similar means, it shall comply with the yard requirements of the principal building to which it is attached.

Section 400.170. Distance Between Buildings.

[Ord. No. 3121, 4-18-2016]

No accessory building shall be located closer than fifteen (15) feet to a principal building or to any other accessory building.

Section 400.180. Vision Clearance At Corners.

[Ord. No. 3121, 4-18-2016]

No fence, wall, hedge, or other structure or planting above a height of three (3) feet shall be erected, placed or maintained within thirty (30) feet of the intersection of the right-of-way line of two (2) streets or railroads, or of a street intersection with a railroad right-of-way, at any intersection adjoined to street by an alley or alley intersection. See also "sight distance triangle" in Section **400.030**.

Section 400.190. Lot Of Record.

[Ord. No. 3121, 4-18-2016]

In any residential district where the owner of a lot at the time of the adoption of this Chapter (April 18, 2016) or his successor in title thereto does not own sufficient land to enable him to conform to the minimum lot width or frontage requirements of this Chapter, such lot may be used as a building site for a single-family residence provided that minimum yard and setback requirements for the residential district in which said lot is located are maintained.

Section 400.200. Area Exceptions.

[Ord. No. 3121, 4-18-2016]

- A. For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as one (1) building occupying one (1) lot:
 1. Semi-detached two-family and four-family dwellings;
 2. Row-houses not more than two (2) rooms deep.
- B. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for any planting or the ordinary projection of sills, belt courses, cornices, buttress, ornamental features and eaves; provided, however, that none of the above projections shall extend into a required side yard area more than twenty-four (24) inches.
- C. In no district shall any portion of a structure, including advertising signs and billboards, extend over the street line.
- D. Open or enclosed fire escapes, fireproof outside stairways and balconies shall project into a yard not more than five (5) feet; the ordinary projections of flues and chimneys may be permitted by the Building Inspector where same are so placed as not to obstruct the light and ventilation.

E. The height regulations as prescribed in this Chapter shall not apply to:

1. Chimneys, Smokestacks.
2. Communication Towers.
3. Cooling Towers.
4. Elevator Bulkheads.
5. Flagpoles.
6. Tanks, Water Towers.
7. Grain Elevators.

Section 400.210. Use Exceptions.

[Ord. No. 3121, 4-18-2016]

- A. Public or private utilities and communications agencies may locate production or pumping stations, substations or other utility facilities in any district subject to the following exceptions:
1. If the proposed use is for office and business purposes, it shall be located in the "C-1" District.
 2. If the proposed use consists of vehicular storage, maintenance buildings and yards, and equipment storage it shall be located in the "C-2" or "I-1" Districts.

Article VI. Conditional Uses

Section 400.220. Conditional Uses.

[Ord. No. 3121, 4-18-2016]

- A. Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain conditional uses listed below when found to be in the interest of the public health, safety, morals, and general welfare of the community may be permitted, except as otherwise specified, in any district from which they are prohibited. Before the location or establishment thereof, or before any change of use of the premises existing at the time of the effective date of the regulations (April 18, 2016), or permitted as herein provided is made, preliminary plans in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning and Zoning Commission. The Commission shall hold a public hearing and shall review such plans and statements and shall, after a careful study thereof, and of the effect that such buildings, structures, or uses will have upon the surrounding territory, submit a recommendation to the City Council within thirty (30) days following said hearing. Following receipt of the Commission's report, the City Council may, within the specifications herein provided, permit such buildings, structures, or uses where requested, provided that the public health, safety, morals, and general welfare will not

be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values. Once a conditional use has been approved by the Commission and the City Council, any building or structure approved as a conditional use shall be fully completed or installed no later than six (6) months from date of final approval, or approval is automatically withdrawn. For good cause shown, the City Council may grant an applicant one (1) additional six-month extension to complete a building or structure approved for conditional use.

[Ord. No. 3199, 5-20-2019]

- B. Any conditional use listed in Subsection **(C)** listed below, existing on the effective date (April 18, 2016) of these regulations, shall be considered a non-conforming use unless it has qualified as provided above, and has been approved as a conditional use by the City Council.
- C. When found to be in the interest of the public health, safety, morals, and general welfare, the City Council is hereby authorized to approve any and all structural alterations to conditional uses after they have qualified and have been approved, provided such alterations do not add materially to the permitted conditional uses.
- D. Standards For Approval. The following criteria will be considered when reviewing each conditional use permit. The burden is placed on the applicant to prove that the proposed conditional use permit complies with the following:
 - 1. Public Welfare. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.
 - 2. Injury To Other Property. 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.
 - 3. Impede Other Development. 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.
 - 4. Provision Of Infrastructure. Adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided.
 - 5. Traffic Congestion. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - 6. Consistency. The conditional use conforms to the applicable regulations of this Chapter, the Comprehensive Plan, and other applicable City regulations, except as such regulations may in each instance be modified by the City Council, pursuant to the recommendation of the Planning and Zoning Commission.
- E. Planning And Zoning Commission Action. The appropriateness of the use will be determined in consideration of surrounding uses, activities and conditions of the site and of surrounding areas. The application, and its supporting documentation, will be reviewed and considered by the Village Planning and Zoning Commission. A public hearing will be held by the commission to ensure surrounding property owners have the

opportunity to comment on the applicant's plans. The commission will then forward the application and supporting documentation, with recommended action, to the Village Trustees for their approval.

- F. City Council Action. The City Council will review the application, supporting documentation, and Planning and Zoning Commission recommendation, conduct a public hearing, and then take final action to approve the application for a conditional use permit. If the application is not approved, the applicant may resubmit the application with changes or appeal the decision to the Board of Adjustment.
- G. The following conditional uses may be approved by the City Council as provided in this Article:
1. Airports and landing fields.
 2. Churches when meeting lot and parking requirements as specified for "R-1" Districts [Section **400.080(A)(3)(a)** and **(b)**]. (Not permitted in "I-1" or "I-2" Zones.)
 3. Circus or carnival grounds, temporary for a specified time.
 4. Day-care centers. (Not permitted in "I-1" or "I-2" Zones).
 5. Extraction, processing, and removal of sand and gravel or stone.
 6. Fairgrounds.
 7. Drive-in theatres.
 8. Hospitals. (Not permitted in "I-1" or "I-2" Zones).
 9. Manufactured home parks, but only when complying with the "Minimum Property Standards for Manufactured Home Courts," as prepared by the U.S. Department of Housing and Urban Development, latest edition.
 10. Multi-family dwellings. (Not permitted in "I-1" or "I-2" Zones).
 11. Nursing/convalescent homes.
 12. Public or governmental buildings or public or governmental use of land.
 13. Public utilities or public service uses, buildings, structures, or appurtenances thereto.
 14. Recreational vehicle park, but only when complying with the following and such additional requirements as may be deemed necessary for its proper development and the protection of the surrounding areas:
 - a. All appropriate State and County sanitation regulations shall be strictly observed.
 - b. At least two thousand four hundred (2,400) square feet of lot area per recreational vehicle. [Minimum lot depth shall be eighty (80) feet.] No recreational vehicle shall be parked closer to the street or highway than the required front yard setback, and in a residential or apartment district, no closer than twenty-five (25) feet to any property line; and a clearance of not less than

twenty (20) feet shall be maintained between recreational vehicles on all sides.

- c. Recreational vehicle spaces shall abut upon a hard-surfaced driveway or accessway of not less than twenty-five (25) feet in width.
 - d. Service buildings or other facilities for bathing, laundry, and sanitation as required by State and County regulations, shall be located at least twenty-five (25) feet from the side and rear lot lines and shall be accessible to all recreational vehicles by means of access drives or hard-surfaced walks.
 - e. Space shall be occupied by travelers, transients, or migrants for a period of time to be determined at the discretion of the recreation vehicle park manager.
 - f. The daily rate shall be fifteen dollars (\$15.00) per day.
 - g. The weekly rate [seven (7) days] shall be ninety dollars (\$90.00) per week.
 - h. The monthly rate [four (4) weeks] shall be two hundred fifty dollars (\$250.00) per month and shall consist of no more than twenty-eight (28) days.
15. Sale Of Used Cars At Retail. Each conditional use permit for sale of used cars shall be issued in the name of the owner of the used car lot and the conditional use permit shall not be transferable.
16. Sports arena, stadium, or racetrack.
17. Swimming pool, commercial, or private swimming club.

Article VII. Off-Street Parking

Section 400.230. Off-Street Parking Requirements.

[Ord. No. 3121, 4-18-2016]

At the time of the erection of any building hereinafter listed or at the time any such building is enlarged or increased in capacity by adding dwelling units, guest rooms or floor area, there shall be provided on the same lot for such new construction, enlargement or increased capacity off-street automobile parking space in accordance with the minimum requirements listed below. Each parking space shall be at least nine (9) feet in width and twenty (20) feet in length, and shall have an adequate backup area; each off-street parking lot shall be provided with adequate traffic circulation aisles.

Type of Building or Use	Number of Required Parking Spaces
Dwellings	1 space per dwelling unit
Commercial Districts	1 space per 200 feet of commercial floor space
Industrial	1 per 4 employees
Public and/or Private Assembly (including churches)	1 per 5 seats in auditorium or assembly area
Central Business District	1 space per 400 square feet floor space.*

Type of Building or Use	Number of Required Parking Spaces
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* May meet requirements within Central Business District by being within one hundred (100) feet of use.

Section 400.240. Off-Street Loading Zones And Service Area.

[Ord. No. 3121, 4-18-2016]

At the time of the erection of any business or industrial building or at the time any such building is enlarged or increased in capacity, there shall be provided on the same lot sufficient loading and service space for such use or uses, which will be in addition to the parking requirements of Section **400.230** above.

Article VIII. Applicability Of Regulations

Section 400.250. Application Of Regulations.

[Ord. No. 3121, 4-18-2016]

- A. Except as provided in this Chapter, no building shall hereafter be erected, reconstructed or structurally altered, nor shall any building or land be used hereafter for any purpose other than is permitted in the district in which such building or land is located.
- B. Except as provided in this Chapter, no building shall hereafter be erected, reconstructed or structurally altered to exceed the height limits herein established for the district in which such building or other structure is located.
- C. Except as provided in this Chapter, no lot area shall hereafter be so reduced or diminished that the yards shall be smaller than described by this Chapter, and no building shall be occupied by more families than prescribed for such building or premises for the district in which it is located.
- D. Except as provided in this Chapter, no yard or other open space provided about any building for the purpose of complying with the provisions of the regulations shall be considered as providing a yard or open space for any other building; provided, further, that no yard or open space on an adjoining property shall be considered as providing a yard or open space on a lot whereon a building or other structure is to be erected.
- E. Every building hereafter erected shall be located on a lot as defined in this Chapter.

Article IX. Non-Conforming Uses

Section 400.260. Non-Conforming Uses.

[Ord. No. 3121, 4-18-2016]

- A. In order to avoid individual hardship wherever reasonable and not in conflict with the general welfare of the City of Malden and for purposes herein outlined, the following provisions shall apply to all zoning districts.
- B. Non-Conforming Uses Permitted. Except as specified in this Chapter, the lawful use of any building or land existing at the time of the enactment of this Chapter (April 18, 2016), may be continued, although such use does not conform to the provisions of this Chapter.
- C. Unsafe Structures. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
- D. Construction Approved Prior To Ordinance. Nothing contained in this Chapter shall require any change in plans, construction or designed use of a building for which a building permit has been heretofore issued and the construction of which has begun.
- E. Restoration. No building damaged by fire or other causes to the extent of more than fifty percent (50%) of its reasonable value shall be repaired or rebuilt except in conformity with the regulations of this Chapter.
- F. Abandonment. Whenever a non-conforming use, excepting neighborhood grocery stores, has been discontinued for any reason, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this Chapter.
- G. Changes In Use. No non-conforming use may be changed to another non-conforming use. Once changed to a conforming use, no building or land shall be permitted to revert to a non-conforming use.
- H. Enlargement Of Non-Conforming Use. No non-conforming use shall be enlarged or extended in any way.
- I. District Changes. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed.

Article X. Administration, Enforcement And Penalties

Section 400.270. Enforcement Officer.

[Ord. No. 3121, 4-18-2016]

The Building Inspector of the City of Malden is hereby authorized and directed to enforce all the provisions of this Chapter and for such purpose he shall have the powers of a Police Officer, except the power to make an arrest. His duties shall include inspecting premises and issuing building permits and certificates of occupancy for buildings and uses that meet the requirements of this Chapter.

Section 400.280. Building Permits.

[Ord. No. 3121, 4-18-2016]

- A. Building permits shall be issued in accordance with the following provisions:

1. Building Permit Required. It shall be unlawful to commence the excavation or filling of any lot for any construction of any building, or to begin construction of any building, or to commence the moving or alteration of any building or to commence the development of land for a use not requiring a building, until the Building Inspector has issued a building permit for such work.
2. Plat Required. All applications for building permits shall be accompanied by a plat in duplicate for dimensioned sketch or to-scale plan signed by the owner or his authorized agent, showing the actual dimensions of the lot to be built upon, the location and size of the building or structure to be erected, the location of adjoining or surrounding buildings or structures, and such other information as may be required by the Building Inspector, which is necessary to provide for the enforcement of this Chapter.
3. Time Limitation. Any building permit issued shall become invalid unless the work authorized by it shall have commenced within six (6) months of its date of issue, or if work authorized by it is suspended or abandoned for a period of one (1) year.

Section 400.290. Certificate Of Occupancy.

[Ord. No. 3121, 4-18-2016]

- A. No vacant land shall be occupied or used until a certificate of occupancy shall have been issued by the Code Enforcement Officer.
- B. No premises shall be used, and no building hereafter erected or structurally altered shall be used, occupied, or changed in use until a certificate of occupancy and compliance shall have been issued by the Code Enforcement Officer, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.
- C. Certificates of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within ten (10) days after the erection or structural alteration of such buildings shall have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Code Enforcement Officer.
- D. No permit for excavation for any building shall be issued before application has been made for certificate of occupancy and compliance.
- E. A certificate of occupancy shall be required of all non-conforming uses. Application for a certificate of occupancy for non-conforming uses shall be filed within twelve (12) months from the effective date of this Chapter (April 18, 2016), with the Code Enforcement Officer.
- F. Denials. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Chapter, or unless the building, as finally constructed, complies with the sketch or plan upon which the building permit was issued.

Section 400.300. Violations And Penalties.

[Ord. No. 3121, 4-18-2016]

- A. In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of this Chapter, the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by the Code Enforcement Officer who is 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 this Chapter.
- B. The owner or general agent of a building or premises where a violation of any provisions of this Chapter 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 that exists, shall be guilty of an ordinance violation punishable by a fine of not less than ten dollars (\$10.00) and not more than two hundred fifty dollars (\$250.00) for each and every day that such violation continues, or by imprisonment for ten (10) days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court. Notwithstanding the provisions of Section 82.300, RSMo., for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) for each and every day that such violation shall continue, or by imprisonment for ten (10) days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court.
- C. Any such person who, having been served with an order to remove any such violation, shall fail to comply with said order within ten (10) days after such service or shall continue to violate any provision of this Chapter in the respect named in such order shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).

[1] *Editor's Note: Sections 479.350 and 479.353, RSMo., may affect the application of these penalties.*

Article XI. Board Of Adjustment

Section 400.310. Appointment, Term, Vacancies, Organization.

[Ord. No. 3121, 4-18-2016]

The Board of Adjustment is hereby created. The Board shall consist of five (5) members, who shall be residents of the City except as provided in Section 305.410, RSMo., appointed

by the Mayor and approved by the City Council. The membership of the first Board appointed shall serve respectively one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years. Thereafter, members shall be appointed for terms of five (5) years each. Three (3) 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 hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board shall elect its own Chairman who shall serve for one (1) year. The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Sections 89.010 to 89.140, RSMo. 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/her absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon question or, if absent or failing to vote, indicating such facts 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.

Section 400.320. Powers.

[Ord. No. 3121, 4-18-2016]

- A. The Board of Adjustment shall have the following powers:
1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Enforcement Officer in the enforcement of this Chapter and may affirm or reverse in whole or in part said decision of the Enforcement Officer.
 2. To hear requests for variances from the literal provisions of this Chapter, in instances where strict enforcement of this Chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of this Chapter. The Board shall not permit as a variance any use in a zone that is not permitted under this Chapter. The Board may impose conditions in the granting of a variance to ensure compliance and to protect adjacent property.
 3. Will hold public hearings in order to decide the following exceptions to or variations of this Chapter:
 - a. To permit the extension of a district where the boundary line thereof divides a lot held in a single ownership at the time of adoption of this Chapter (April 18, 2016).
 - b. Classify commercial or industrial uses not specifically listed in this Chapter.
 - c. Permit reconstruction of a non-conforming building otherwise prohibited elsewhere in this Chapter.
 - d. Vary the yard regulations where there is an exceptional or unusual physical condition of a lot not generally prevalent in the neighborhood, which condition

when related to the yard regulations of this Chapter would prevent a reasonable or sensible arrangement of buildings on the lot.

- e. Vary the parking regulations where it is conclusively shown that the specific use of a building would make unnecessary the parking space otherwise required by this Chapter or where it can be conclusively shown that adequate off-street parking to serve a particular use has been provided by or is controlled by the municipality.

Section 400.330. Factors To Be Considered.

[Ord. No. 3121, 4-18-2016]

- A. In considering all appeals and proposed variations to this Chapter, the Board shall, before making any finding in a specific case, first determine that the proposed variation will not constitute any change in the District Map and will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire and safety or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the City of Malden.
- B. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the Enforcement Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter or to effect any variation of this Chapter.
- C. 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 City, may present to the circuit court of the county or city in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order. The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his/her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any

proceedings under Sections 89.080 to 89.110, RSMo., shall have preference over all other civil actions and proceedings.

Section 400.340. Decision Of Appeal.

[Ord. No. 3121, 4-18-2016]

In exercising the above-mentioned powers the Board may, in conformity with the provisions of Sections 89.010 to 89.140, RSMo., and this Chapter, 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.

Article XII. Changes And Amendments

Section 400.350. Changes And Amendments.

[Ord. No. 3121, 4-18-2016]

- A. The City Council may, from time to time on its own motion or on petition, amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established.
- B. Before taking any action on any proposed amendment, supplement, or change, the City Council shall submit the same to the Planning and Zoning Commission for its recommendation and report.
- C. The Planning and Zoning Commission shall hold a public hearing thereon, before submitting recommendations for final action on the motion or petition to amend, supplement, or change the ordinance. Notice of public hearings before the Commission shall be given by publishing the time, place, and nature of the hearing not more than thirty (30) nor less than fifteen (15) days before the hearing at least once in one (1) or more newspapers in general circulation in the municipality. The Commission shall submit their recommendation to the City Council not later than fourteen (14) days after public hearing.
- D. If a proposed amendment be disapproved by the Planning and Zoning Commission, or if written protest against such amendment, supplement, or change had been filed in the office of the City Clerk within fourteen (14) days after the date of the actual hearing pursuant to the publication notice, duly signed and acknowledged by the owners of thirty percent (30%) 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 eighty-five (185) feet distant from the boundaries of the district proposed to be changed, such amendment, supplement, or change shall not become effective except by the favorable vote of two-thirds (2/3) of all members of the City Council. A decision by the Council shall be made not later than thirty (30) days after the date of the public hearing.
- E. Whenever a petition requesting an amendment, supplement, or change had been denied by the City Council, such petition, or one substantially similar, shall not be reconsidered sooner than one (1) year after the previous denial.

Section 400.360. Establishment And Amendment Of Building Lines.

[Ord. No. 3121, 4-18-2016]

After the adoption of a major street plan, the City Council, upon recommendation of the Planning and Zoning Commission, is authorized to adopt ordinances to establish, regulate, limit and amend building or setback lines on major streets, and to prohibit any new building being located within building or setback lines. After a plan for proposed major streets or other public improvements has been adopted, the City Council may prohibit any new building being located within the proposed site or right-of-way when the centerline 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 and Zoning Commission and adopted by the City Council.

[1] *State Law Reference: For similar provisions, see § 89.480, RSMo.*

Article XIII. Planning And Zoning Commission

Section 400.370. Composition, Terms, Vacancy, Removal.

[Ord. No. 3121, 4-18-2016]

There is hereby established within and for the City a Planning and Zoning Commission which shall consist of not more than fifteen (15) nor fewer than seven (7) members, including the Mayor, if the Mayor chooses to be a member; a member of the City Council selected by the City Council, if the City Council chooses to have a member serve on the Commission; and not more than fifteen (15) nor fewer than five (5) citizens appointed by the Mayor and approved by the City Council. The term of each of the citizen members shall be for four (4) years, except that the terms of the citizen members first appointed shall be for varying 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 City Council may remove any citizen member for cause stated in writing and after public hearing.

A.

[1] *State Law Reference: For similar provisions, see § 89.320, RSMo.*

Section 400.380. Chairman And Secretary-Meetings-Rules And Records.

[Ord. No. 3121, 4-18-2016]

The Planning and Zoning Commission shall elect a Chairman and Secretary from among the citizen members. The term of Chairman and Secretary shall be for one (1) year, with eligibility for re-election. The Planning and Zoning Commission shall hold such regular and special meetings as they may provide by rule; adopt rules for the transaction of business; and keep a record of its proceedings, which shall be public records.

[1] *State Law Reference: For similar provisions, see § 89.330.1, RSMo.*

Section 400.390. Powers And Duties Generally.

[Ord. No. 3121, 4-18-2016]

In general, the Planning and Zoning Commission shall have all powers necessary to enable it to perform its functions, promote municipal planning and zoning, and discharge all duties imposed upon it by this Code or by other ordinance or resolution of the City Council; and the Planning and Zoning Commission shall have and perform all of the functions of a Zoning Commission and of a Planning and Zoning Commission as provided for all municipalities in Chapter 89, RSMo.

[1] *State Law References: For similar provisions, see RSMo. §§ 89.370, 89.390.*

Section 400.400. Personnel — Professional Services — Budget Restrictions.

[Ord. No. 3121, 4-18-2016]

The Planning and Zoning 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 the City Council.

[1] *State Law Reference: For similar provisions, see § 89.330.1, RSMo.*

Section 400.410. Cooperation By Other City Departments — Right To Enter Upon Land To Make Examinations And Surveys.

[Ord. No. 3121, 4-18-2016]

All City departments, offices and agencies shall cooperate with the Planning and Zoning Commission and shall, upon request, furnish to the commission, within a reasonable time, all available information it requires for its work. The Planning and Zoning Commission, its members and employees, in the performance of their duties, may enter upon any land to make examinations and surveys.

[1] *State Law Reference: For similar provisions, see § 89.370, RSMo.*

Article XIV. City Plan

[1] *State Law Reference: As to City planning, see § 89.300 et seq., RSMo.*

Section 400.420. Preparation And Adoption Provisions — Scope And Contents.

[Ord. No. 3121, 4-18-2016]

The Planning and Zoning Commission shall make and adopt a plan for the physical development of the City. 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.

[1] *State Law Reference: For similar provisions, see 89.340, RSMo.*

Section 400.430. Surveys And Studies Involved In Preparation — Purpose Of Plan.

[Ord. No. 3121, 4-18-2016]

In the preparation of the City Plan, the Planning and Zoning Commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the City. The City Plan shall be made with the purpose of guiding and accomplishing a coordinated development of the City 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.

[1] *State Law Reference: For similar provisions, see § 89.350, RSMo.*

Section 400.440. Adoption and Amendments.

[Ord. No. 3121, 4-18-2016]

The Planning and Zoning Commission may adopt the City 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 (1) 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 Planning and Zoning Commission shall hold at least one (1) public hearing thereon. Fifteen (15) days' notice of the time and place of such hearing shall be published in at least one (1) newspaper having general circulation within the City. 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 and Zoning 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 City 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 City Council and the City 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 business hours.

[1] *State Law Reference: For similar provisions, see § 89.360, RSMo.*

Article XV. Zoning Plan

[1] *State Law References: For State law provisions relating to zoning in all municipalities, see §§ 89.010 – 89.140, 89.340, 89.390, RSMo.*

Section 400.450. When Planning And Zoning Commission Approval Of Public Improvements Required — How Commission's Disapproval May Be Reversed.

[Ord. No. 3121, 4-18-2016]

After the Planning and Zoning Commission has adopted the plan of the City or any segment thereof, no street or other public facility, 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 City until the location, extent and character thereof has been submitted to and approved by the Planning and Zoning Commission. In case of disapproval, the Planning and Zoning Commission shall communicate its reasons to the City Council which, by vote of not less than two-thirds (2/3) of its entire membership, may overrule the disapproval and, upon the overruling, the City 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 City Council, then the submission to the Planning and Zoning Commission shall be the Board having jurisdiction, and the Planning and Zoning's disapproval may be overruled by that Board by a vote of not less than two-thirds (2/3) 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 Planning and Zoning Commission to act within sixty (60) days after the date of official submission to it shall be deemed approval.

[1] *State Law Reference: For similar provisions, see § 89.380, RSMo.*

Section 400.460. Zoning Plan.

[Ord. No. 3121, 4-18-2016]

The Planning and Zoning Commission shall 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.

[1] *State Law Reference: For similar State law and requirement that adoption, enforcement and administration of the zoning plan must conform to specified statutory requirement, see § 89.340, RSMo.*