

309 GATEWAY

**CITY OF MARION  
ILLINOIS**

**ZONING ORDINANCE  
# 1148**

# ZONING ORDINANCE

ORDINANCE # 1148

## ARTICLE I

### GENERAL PROVISIONS

#### Section 1: PURPOSE

An ordinance to establish zone districts and regulations governing the development and use of land within the City of Marion, Illinois, in order to preserve, protect, and promote the public health, safety, and welfare in accordance with the Illinois Revised Statutes (*Chapter 24, Section 11-13-1 et. seq.*).

#### Section 2: TITLE

This ordinance shall be known and may be cited as the Zoning Ordinance of the City of Marion, Illinois.

#### Section 3: JURISDICTION

This ordinance shall be applicable within the corporate limits of Marion, Illinois and within one and one half (1.5) miles of the corporate limit of Marion, Illinois.

#### Section 4: INTERPRETATION AND RELATION TO OTHER LAWS

Every provision of this ordinance shall be construed liberally in favor of the City of Marion, and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this ordinance differ from the requirements of any other lawfully adopted and effective ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail. Regardless of any other provision of this ordinance, no land shall be used and no structure shall be erected or maintained in violation of any duly constituted laws of the State of Illinois or of the United States of America.

#### Section 5: DISCLAIMER OF LIABILITY

Except as may be provided otherwise by statute or ordinance, no official, city council member, agent, commission or board appointee, or employee of the City shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of duties under this ordinance. Any such person made a party to a civil action, civil rights or constitutional rights damage action, or anti-trust action by reason of the discharge of said duties shall be held harmless and indemnified by the City of Marion for all damages and attorney's fees incurred provided that: 1) the person makes a timely disclosure of the litigation or threatened litigation to the City, and 2) the person authorizes the City to provide primary representation through the City's attorney in such litigation or threatened litigation and cooperates with the City in the primary presentation. The City will not indemnify such person for punitive damages assessed against the person nor pay attorney's fees incurred by the person for counsel not retained by the City of Marion. Said indemnification shall be against all judgments, fines, amounts paid in settlements, and reasonable expenses incurred resulting from any such action or proceeding, or any appeal, to the fullest amount permitted by the laws of the State of Illinois. The foregoing statement of indemnification is deemed to be a contract between the City of Marion and each city official, city council member, agent, commission or board appointee, or employee with explicit or implied responsibilities under the provisions of this ordinance.

**Section 6: SEVERABILITY**

If any provision of this ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this ordinance.

**Section 7: INCLUSION OF ARTICLES**

Articles numbered Article I through Article XVII, are components of and a part of this ordinance.

**Section 8: REPEAL OF ORDINANCE #662**

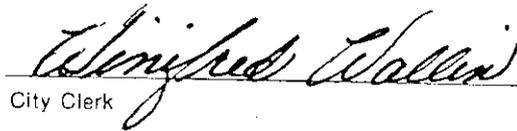
The existing zoning regulations of the City of Marion, as specified in Ordinance #662, are hereby repealed and superceded by the regulations established in this ordinance. The repeal of Ordinance #662 becomes effective on the date that this ordinance is legally initiated.

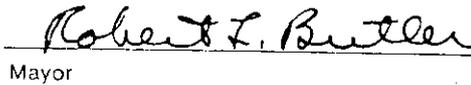
**Section 9: EFFECTIVE DATE**

This ordinance shall take effect June 1, 1987, after final passage, approval, and publication as provided by Illinois law.

Passed by the City Council this 27th day of April, 1987.

ATTEST

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

# SUMMARY OF ZONING REGULATIONS CITY OF MARION

ZONE	PRINCIPAL PERMITTED USES	HEIGHT OF MAIN BUILDING	MINIMUM YARDS & SETBACKS			MINIMUM LOT AREAS PER		MINIMUM LOT WIDTH
			FRONT	SIDE	REAR	LOT	DWELLING UNIT	
R-1 RURAL AGRICULTURE	Agricultural uses Single Family Homes Commercial Nurseries Schools	25/35*	20'	10'	20'	1 acre	1 acre	150'
R-1 SINGLE FAMILY RESIDENTIAL	Single Family Homes  Parks/ Playgrounds	25/35*	20'	10'	20'	7,000 sq. ft.	7,000 sq. ft.	70'
R-2 GENERAL FAMILY RESIDENTIAL	Single Family Homes  Multiple Family Homes	25/35*	20'	10'	20'	5,500 sq. ft.	3,000 sq. ft.	60'
MH MOBILE HOME	Mobile Homes Single Family Homes  Multiple Family Homes	25/35*	20'	10'	20'	5,500 sq. ft.	3,000 sq. ft.	50'
C-1 COMMERCIAL	Retailing Wholesaling Services  2nd Floor Housing	50'	None on local street 30' when lot front abuts state maintained highway.	None except 10' when lot abuts residential zone.	None except 10' when lot abuts residential zone.	None	None	30'
C-2 HIGHWAY COMMERCIAL	Restaurants Motels  Service Stations	50'	30' from abutting street R.O.W. & 75' from state maintained highway R.O.W.	Same as C-1	Same as C-1	10,000 sq. ft.		75'
I INDUSTRIAL	Assembly Manufacturing etc.	60'	10% of lot width or depth, whichever is greater.	Same as C-1	Same as C-1	10,000 sq. ft.		30'

\*Height may be increased to 35' with reciprocal front and rear yard setbacks to 25' each.

\*\*Pre-1950 lots of record may reduce one side yard to 5 feet.

# ARTICLE II

## DEFINITIONS

### Section 1: CONSTRUCTION OF TERMS

In constructing the intended meaning of terms used in this ordinance, the following rules are observed:

- A. Words and phrases shall have the meaning respectively ascribed to them in Section 2 of this article unless the context clearly indicates otherwise; terms not defined in Section 2 shall have their standard English dictionary meanings.
- B. Words used in the present tense shall include the future tense.
- C. The term shall is mandatory; the term may is discretionary.
- D. All distances shall be measured to the nearest integral foot; six (6) inches or more shall be deemed one (1) foot.
- E. References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

### Section 2: SELECTED DEFINITIONS

**Abutting:** As applied to lots, "*abutting*" means having a common lot line or district line, or so located in relation to each other that there would be a common lot line or district line but for the existence of a street, alley, or other public right-of-way.

**Access Way:** A curb cut, ramp, driveway, or other means for providing vehicular access to an off street parking or loading area.

**Accessory Use:** Any structure or use that is:

- A. subordinate in size or purpose to the principal structure or use which it serves;
- B. necessary or contributing to the comfort and convenience of the occupants of the principal structure or use served; and
- C. located on the same lot as the principal structure or use served.

**Administrator:** The person or agent assigned to administer the zoning ordinance by the Marion City Council

**Agriculture:** Any one or any combination of the following: the growing of farm or truck garden crops, dairying, pasturage, horticulture, floriculture, or animal/poultry husbandry. The term "*agriculture*" encompasses the farmhouse, and accessory uses and structures customarily incidental to agricultural activities.

**Aisle:** A vehicular traffic way within an off-street parking area, used as a means of access/egress from parking spaces.

**Alley:** A public right-of-way which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

**Alter:** To change the size, shape, or use of a structure.

**Amendment:** A change in the provisions of this ordinance, including those portions incorporated by reference, properly accomplished in accordance with state law and the procedures set forth herein.

**Apartment:** See Dwelling, Multiple Family.

**Attached:** As applied to buildings, "*attached*" means having a common wall and/or common roof.

**Block:** An area of land entirely bounded by streets, highways, barriers, or ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision) or bounded by a combination of streets, public parks, cemeteries, railroad rights of way, waterways, or corporate boundary lines.

**Board of Appeals:** The Board of Zoning Appeals of the City of Marion, Illinois.

**Building:** Any covered structure permanently affixed to land and designed to be used to shelter persons or chattels.

BED + BREAKFAST ADD. . SEE ORDINANCE # 2118

**Building Height:** The vertical distance measured from the average grade at the front wall of a building to the highest point of the coping of flat roof or to the deck line roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs. Chimneys, towers, cooling towers and similar projections shall not be included in calculating building height.

**Building Line:** The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way line.

**City:** The City of Marion, Illinois.

**Clinic:** An establishment where licensed physicians, chiropractors, dentists, or other practitioners of the healing arts who are licensed by the State of Illinois respectively practice medicine, chiropractic, or dentistry but where overnight lodging for sick or injured persons is not provided.

**Club/Lodge:** a nonprofit association of people who are bonafide members organized for some purpose(s) that includes the rendering of a service customarily carried on as a commercial enterprise.

**Conforming:** In compliance with the applicable provisions of this ordinance.

**Conventionally Built:** A generic type of construction activity, exclusive of mobile homes, involving the original assembly of building materials or final assembly of unitized components on a construction site within the zoning jurisdiction of the City of Marion, Illinois.

**Day Care Center:** See "Nursery School".

**Detached:** As applied to buildings, "detached" means surrounded by yards on the same lot as the building and not otherwise attached to a second structure.

**Develop:** To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation thereof.

**Dimensions:** Refers to lot depth and width.

**District, Zoning:** A portion of the territory subject to this ordinance wherein certain uniform requirements or various combinations thereof apply to structures, lots, and uses under the terms of this ordinance.

**Driveway:** A minor way commonly providing vehicular access to a garage or off-street parking area.

**Dwelling:** A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hospitals, nursing homes, hotels, motels, or other accommodations for the transient public.

**Dwelling, Multiple Family:** A building or portion thereof containing two (2) or more dwelling units.

**Dwelling, Single Family:** A building intended for the use of one family as living quarters.

**Dwelling Unit:** One or more rooms designed or used as living quarters by one family. A "dwelling unit" always includes at least one bathroom and a kitchen.

**Easement:** A right to use another person's real property for certain limited purposes.

**Enclosed:** As applied to a building, "enclosed" means covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls or by common walls, with openings only for windows and doors.

**Enlarge:** To increase the size (floor area, height, etc.) of an existing structure or to devote more land to an existing use.

**Erect:** To build, construct.

**Establishment:** Either of the following:

- A. an institutional, business, commercial, or industrial activity that is the sole occupant of one or more buildings; or
- B. an institutional, business, commercial, or industrial activity that occupies a portion of a building such that:
  1. the activity is a logical and separate entity from the other activities within the building and not a department of the whole; and

2. the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

**Existing:** Actually constructed or in operation on the effective date of this ordinance.

**Family:** One person, or two or more persons related by blood, marriage, or legal adoption, or not more than three (3) unrelated persons, maintaining a common household in a dwelling unit.

**Floor Area, Gross:** The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment, and enclosed porches.

**Frontage:** The linear extent of the front (street side) of a lot.

**Greenhouse:** A building in which trees, shrubs, and other plants are raised for transplanting and sale in support of agricultural, wholesale, or retail enterprises.

**Home Occupation:** Any business, profession, or occupation conducted for gain entirely within a dwelling or on residential premises in conformity with the provisions of this ordinance.

**Hospital:** An institution devoted, on an around-the-clock basis, to the maintenance and operation of facilities for the diagnosis, treatment, or care of members of the general public suffering from disease, injury, or other abnormal physical conditions. The term "hospital" as used in this ordinance includes sanitariums but excludes institutions operating solely for the treatment of mentally ill, drug addicts or alcoholics, and convalescent/nursing homes.

**Immobilize:** As applied to a mobile home, "immobilize" means to remove the wheels, tongue, and hitch and/or to place on a permanent foundation.

**Intersection:** The point at which two or more public rights-of-way (generally streets) meet.

**Kennel:** Any structure or premises or portion thereof on which more than three (3) dogs, cats, or other household domestic animals over four (4) months of age are kept.

**Loading Space:** An off-street space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

**Lot:** A tract of land intended as a unit for the purpose (whether immediate or future) of transfer of ownership or development. A lot may or may not coincide with a "lot of record".

**Lot, Corner:** A lot having at least two (2) sides that abut along their full length upon street rights-of-way but not along alleys or other minor ways. Both lot lines that abut street rights-of-way shall be deemed front lot lines.

**Lot, Through:** A lot having a pair of approximately parallel lot lines that abut two (2) approximately parallel street rights-of-way. Both lot lines shall be deemed front lot lines.

**Lot Area:** The area of a horizontal plane bounded by the front, side, and rear lines of a lot.

**Lot Coverage:** The portion of a lot that is occupied by buildings or structures, including accessory buildings or structures.

**Lot Depth:** The average horizontal distance between the front lot line and the rear lot line of a lot.

**Lot Line, Front:** The lot boundary abutting the street right-of-way.

**Lot Line, Rear:** An interior lot line which is most distant from and most nearly parallel to the front lot line.

**Lot Line, Side:** Any boundary line of a lot which is not a front lot line or a rear lot line.

**Lot Size Requirements:** Refers to the required area, width, and depth dimensions of a lot within a given zone district.

**Lot Width:** The average horizontal width of a lot measured at right angles to the side lot lines.

**Maintenance:** The routine upkeep of a structure, premises, or equipment, including the replacement or modification of structural components to the extent necessary to keep the said structure in sound condition.

- Mobile Home:** Regardless of intended or ultimate use, a structure designed to permit transport on its own wheels and chassis, including but not limited to, "double-wides" and "modulars".
- Mobile Home Park:** A lot(s) not more than two (2) acres in area in single ownership/control, developed with facilities for accommodating occupied mobile homes in accordance with the requirements of the Marion Mobile Home Regulations.
- Mobile Home Standards:** Standards applying to the space beneath a mobile home that includes a concrete slab or runners on which the home is placed.
- Nonconforming:** As applied to a lot, structure, or use, "nonconforming" means (1) lawfully existing on the effective date of this ordinance, but (2) not in compliance with the applicable provisions thereof.
- Nuisance:** Any thing, condition, or conduct that endangers health, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.
- Nursery:** A tract of land on which trees, shrubs, or other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.
- Nursery School:** An establishment for the part-time care and/or instruction of four (4) or more unrelated children of pre-elementary school age.
- Nursing Homes:** A building used as a medical care facility for persons who need long term nursing care and medical services, but do not require intensive hospital care.
- Office:** Any building or portion thereof in which the business (usually clerical and administrative affairs) of a commercial/service enterprise or professional person is transacted.
- Parking Area/Lot, Off-Street:** Land that is improved in accordance with this ordinance and used primarily for the storage/parking of passenger motor vehicles, free of charge or for compensation. An "off-street parking area", depending upon the circumstances of its use, is either a principal use or an accessory use.
- Parking Space, Off-Street:** An area at least twenty (20) feet long and ten (10) feet wide within an off-street parking area or garage, used for parking or storage of one passenger motor vehicle.
- Permitted Use:** Any use which is or may be lawfully established in a particular district, provided it conforms with all the requirements applicable to said district.
- Person:** Any individual, firm, association, organization, or corporate body.
- Plot:** A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.
- Premises:** A lot and all the structures and uses thereon.
- Principal Building/Structure/Use:** The main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.
- Property Line:** See "Lot Line".
- Reconstruct:** As applied to nonconforming structures, "reconstruct" means to rebuild after partial or total destruction.
- Relocate:** To move to another location on a lot or to a different lot.
- Repair:** To restore to sound condition, but not to reconstruct.
- Retail:** Refers to the sale of goods or services directly to the consumer rather than to another business.
- Right-of-Way, Public:** A strip of land which the owner/subdivider has dedicated to the City or to another unit of government for streets, alleys or public passage.
- Service Use/Establishment:** Any land use or establishment wherein services are provided for remuneration either to individuals or to other firms.
- Setback:** The distance between the front lot line and the building line; or between a side or rear lot line and that side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.
- Single-Family Residence:** See "Dwelling, Single-Family".

**Skirting:** The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

**Special Use:** A use that has unusual operational, physical, and other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses commonly must meet special standards not necessarily applicable to permitted uses in the district, and are allowed only by permit.

**Special Use Permit:** A permit issued in accordance with the provisions of this ordinance to regulate the development/operation of special use.

**Stable:** A structure, situated on the same lot as a dwelling, and designed or used for housing horses for the private use of occupants of the dwelling, but not for hire.

**Street:** A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, lane, place, drive, court, and similar designations, but excludes an alley or a way for pedestrian use only.

**Street, Private:** Any street providing access to abutting property that is not maintained by or dedicated to the City or another public entity.

**Structure:** Anything constructed or erected on the ground, or attached to something having a fixed location on the ground. All buildings are structures, but not all structures are buildings.

**Structure, Temporary:** Any structure that is not attached to a permanent foundation.

**Temporary Use Permit:** A permit issued in accordance with provisions of this ordinance and valid for not more than one (1) year, which allows the erection or occupation of a temporary structure or the operation of a temporary enterprise.

**Topography:** The physical relief features or surface configuration of an area.

**Use:** The purpose or activity for which land or a structure thereon is designed, occupied, or used.

**Use Variance:** An amendment (not variance) that allows a use in a district where said use would not be allowed under existing provisions of this ordinance.

**Utility Substation:** A secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant.

**Variance:** A relaxation of the strict application of the lot size, setbacks, or other bulk requirements applicable to a particular lot or structure.

**Wholesale:** Refers to the sale of goods or services by one business to another business.

**Yard:** Open space that is unobstructed except as specifically permitted in this ordinance and is located on the same lot as the principal building.

**Yard, Front:** A yard which is bounded by side lot lines, front lot lines, and the building line.

**Yard, Rear:** A yard which is bounded by side lot lines, rear lot lines, and the rear building line.

**Yard, Side:** A yard which is bounded by the rear yard line, front yard line, side property line and side building line.

**Zoning Map:** The map and any amendments thereto designating zoning districts, and incorporated into this ordinance by reference.

# ARTICLE III

## DISTRICTS, ZONING MAP, AND GENERAL PROVISIONS

### Section 1: Districts

For the purposes of this ordinance, the City of Marion is divided into the following districts:

- A. R-A Rural-Agricultural District
- B. R-1 Single Family Residential District
- C. R-2 General Residential District
- D. MH Mobile Home Park District
- E. C-1 General Commercial District
- F. C-2 Highway Commercial District
- G. I Industrial District
- H. FPO Flood Plain Overlay District
- I. APO Airport Overlay District

### Section 2: ZONING MAP DISTRICT BOUNDARIES

The boundaries of the zoning districts are established on two corresponding maps entitled "Zone District Map, City of Marion, Illinois," (Part 1 and Part 2) which accompany and are part of this ordinance. District boundary lines follow lot lines, center lines of streets and alleys, railroad rights-of-way, and other similar features. Questions concerning the exact location of the district boundaries shall be determined by the Zoning Board of Appeals. In accordance with Illinois State law, if any changes are made in the zoning districts or regulations during a calendar year, the City shall publish the revised official zoning map no later than March 31st of the following year.

### Section 3: ZONING UPON ANNEXATION AND PRE-ZONING

Any territory annexed to the City is upon such annexation automatically zoned R-A, Rural-Agricultural, until otherwise zoned. Property owners seeking to have their property annexed to the City of Marion may petition the City Council to pre-zone such territory. In assigning a zone district designation to the subject territory, any zone classification or combination of classifications may be utilized so long as said classifications do not constitute a land use conflict in the opinion of the City Council. The City Council may seek the advisory opinion of the Zoning Board of Appeals on pre-zoning issues. The requirements of Section 4 below apply to pre-zoning procedures.

### Section 4: MINIMUM ZONING AREAS

In order to prevent "spot" zoning, the smallest total area of contiguous lots that can properly be given a district designation is as follows:

Table 1

Minimum Zone District Areas

District	Minimum Zone District Area
A. Rural-Agricultural	3 acres
B. Single Family Residential	1 acre
C. General Residential	1 acre
D. Mobile Home Park	1 acre
E. General Commercial	1 acre
F. Highway Commercial	1 acre
G. Industrial	1 acre
H. Flood Plain Overlay	None
I. Airport Overlay	None

### Section 5: AFFECTED PROPERTY

Except as specifically provided in this ordinance, no building, structure, or land shall be used and no building, structure, or part thereof shall be erected, constructed, reconstructed, occupied, moved, altered or repaired, except in conformity with this ordinance.

### Section 6: CONTINUING EXISTING USES

Any use lawfully existing at the time of enactment of the ordinance shall be allowed to continue as a non-conforming use, subject to the provisions of Article XV.

### Section 7: REPAIRS

Any part of any building or structure which is declared unsafe by the City of Marion may be strengthened or restored to a safe condition pursuant to inspection by the administrator.

### Section 8: ACCESS AND STREET FRONTAGE

No building shall be erected on any lot unless such lot abuts or has permanent easement of access to a public or private street. Such lot abutment or permanent easement of access shall not be less than thirty (30) feet on a street.

### Section 9: INTRUSIONS INTO YARDS

To the extent indicated below, the following features of principal buildings may intrude into required yards without violating the minimum setback requirements:

Table 2  
Maximum Yard Intrusions

Feature	Maximum Intrusion		
	Front Yard	Side Yard	Rear Yard
Cornices, Chimneys, and Architectural Features	Two (2) feet	None	Two (2) feet
Fire Escapes	Four (4) feet	None	Four (4) feet
Patios at Ground Level	Not Applicable	No Limit	No Limit
Decks (elevated 6" or more)	Six (6) feet	None	Six (6) feet
Balconies	Four (4) feet	None	Four (4) feet
Roof Overhangings	Four (4) feet	Two (2) feet	Four (4) feet

### Section 10: EXCEPTIONS TO HEIGHT LIMITS

- A. **Necessary Appurtenances:** Chimneys, church spires, cooling towers, elevator bulkheads, fire towers, antennas, and other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitation of the district in which they are located if they comply with all other pertinent city ordinances and do not conflict with the provisions of the Airport Overlay District (APO).
- B. **Intersections:** On corner lots, in the triangular portion of land bounded by intersecting street right of way lines and a line joining those street lines at points thirty (30) feet from the point of intersection, no natural or man-made obstruction shall intrude into the air space that is between two (2) and ten (10) feet above the level of the adjacent street.

### Section 11: SEWERS AND SEPTIC TANK SYSTEMS

In all districts, property owners of all buildings and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

- A. Whenever the City sewage system is available within a distance of three hundred (300) feet or less measured from the property line closest to the sewage system, all sewage shall be discharged into the City system. The requirement applies regardless of the availability of a private sewage system which may already exist or which may be more convenient.
- B. Whenever the City sewage system is not located within the distance described above, a private sewage system shall be installed and used. All private sewage systems shall be designed, constructed, operated, and maintained in conformity with the following requirements:
1. Illinois Private Sewage Disposal Licensing Act, as amended.
  2. Illinois Private Sewage Disposal Code Number 4.002, promulgated by the Illinois Department of Public Health, as amended from time to time.
  3. Pertinent, current regulations of the Illinois Environmental Protection Agency.

# ARTICLE IV

## RURAL-AGRICULTURAL (R-A) DISTRICT

### Section 1: PERMITTED USES

- A. Agricultural uses including farms, ranches, and horticultural enterprises.
- B. Commercial nurseries, greenhouses, and temporary produce stands.
- C. Single family residences.
- D. Contractors storage yards and facilities related to agricultural enterprises including spraying, trimming, fertilizing, tree removal, drainage, and/or crop harvesting and storage.
- E. Governmental facilities including airports, and cemeteries.
- F. Offices.
- G. Private or public recreational facilities including golf courses.
- H. Mining operations consistent with state law.

### Section 2: USES REQUIRING SPECIAL USE PERMITS

- A. Agricultural implement and heavy equipment sales.
- B. Animal hospitals and veterinary offices.
- C. Blacksmith and welding operations.
- D. Kennels.
- E. Churches.
- F. Mobile homes.
- G. Horse keeping and the keeping of animals for agricultural projects, hobbies, or home occupations.
- H. Hospitals
- I. Food and dairy product processing.
- J. Nursing homes. *see #2130*
- K. Schools.

### Section 3: ACCESSORY USES

See Article XIII, Section 3.

### Section 4: AREA, HEIGHT, SETBACK, AND YARD REGULATIONS

- A. Minimum Lot Area – One (1) acre.
- B. Permitted Height of Main Building – Twenty-five (25) feet except non-residential farm structures. May be increased to a maximum of thirty-five (35) feet with a reciprocal front and rear yard setback of at least twenty-five (25) feet each.
- C. Minimum Yard Setbacks
  - 1. Front – Twenty (20) feet from any property line adjoining any public street.
  - 2. Side – Ten (10) feet.
  - 3. Rear – Twenty (20) feet.
- D. Minimum Lot Width – One Hundred fifty (150) feet.
- E. Maximum Lot Coverage Standard – None.

# ARTICLE VII

## MOBILE HOME (M-H) DISTRICT

### Section 1: PERMITTED USES

- A. Mobile homes located on individual lots.
- B. Mobile homes in a mobile home park configuration consisting of a single lot or group of lots where mobile homes do not exceed eight (8) units per acre.
- C. Conventionally built single family residences.
- D. Multiple family dwellings.

### Section 2: USES REQUIRING SPECIAL USE PERMITS

- A. Mobile home parks where mobile home densities exceed eight (8) units per acre or where the park exceeds 2 acres in one or cumulative parcels.
- B. Churches.
- C. Governmental uses.
- D. Utility sub-stations with screening.
- E. Schools.
- F. Day care centers.
- G. Clinics.
- H. Nursing homes, sanitariums, and shelter care homes provided that no penal or correctional inmates are housed therein. SEE # 2130
- I. Offices of civic, religious, or charitable institutions; financial or insurance companies; physicians, dentists, architects, engineers, attorneys, real estate, or allied professions provided that:
  - 1. the applicant can demonstrate adequate off-street parking facilities,
  - 2. that selling of merchandise extraneous to the profession will not occur on the premises, and
  - 3. that structures originally constructed to serve as residences remain unaltered.

### Section 3: ACCESSORY USES

See Article XIII, Section 3.

### Section 4: AREA, HEIGHT, SETBACK, AND YARD REGULATIONS

- A. Minimum Lot Area – 5,500 square feet or 3,000 square feet per family in multiple family structures.
- B. Permitted Height of Main Building – Twenty-five (25) feet. May be increased to thirty-five (35) feet with reciprocal front and rear yard setbacks of twenty-five (25) feet each.
- C. Minimum Yards and Setbacks
  - 1. Front – Twenty (20) feet.
  - 2. Side – Ten (10) feet. Lots legally platted prior to 1950 may utilize a five (5) foot setback on one (1) side yard if the side yards combined equal at least fifteen (15) feet.
  - 3. Rear – Twenty (20) feet.
- D. Minimum Lot Width – Fifty (50) feet.
- E. Maximum Lot Coverage Standard – 33 percent.

# ARTICLE V

## SINGLE FAMILY RESIDENTIAL (R-1) DISTRICT

### Section 1: PERMITTED USES

- A. Conventionally built single family residences.
- B. Public parks and playgrounds.
- C. BEO & BREAKFAST ESTABLISHMENT

### Section 2: USES REQUIRING SPECIAL USE PERMITS

- A. Churches.
- B. Governmental uses.
- C. Schools.
- D. Utility sub-stations with screening.

### Section 3: ACCESSORY USES

See Article XIII, Section 3.

### Section 4: AREA HEIGHT, SETBACK, AND YARD REGULATIONS

- A. Minimum Lot Area – 7,000 square feet.
- B. Permitted Height of Main Building – Twenty-five (25) feet. May be increased to thirty-five (35) feet with a reciprocal front and rear yard setback of twenty-five (25) feet each.
- C. Minimum Yard Setbacks –
  - 1. Front – Twenty (20) feet from any property line adjoining any public street.
  - 2. Side – Ten (10) feet.
  - 3. Rear – Twenty (20) feet.
- D. Minimum Lot Width – Seventy (70) feet.
- E. Maximum Lot Coverage Standard – 25 percent.

### Section 5: PROHIBITED USES

- A. Mobile Homes.

# ARTICLE VI

## GENERAL RESIDENTIAL (R-2) DISTRICT

### SECTION 1: PERMITTED USES

- A. Conventionally built single family residences.
- B. Multiple family dwellings.
- C. Public parks and playgrounds.
- D. ~~BED + BREAKFAST~~ ESTABLISHMENT

### SECTION 2: USES REQUIRING SPECIAL USE PERMITS

- A. Churches.
- B. Governmental uses.
- C. Utility sub-stations with screening.
- D. Schools.
- E. Day care centers.
- F. Clinics.
- G. Nursing homes, sanitariums, and shelter care homes provided that no penal or correctional inmates are housed therein. *SEE # 2130*
- H. Offices of civic, religious, or charitable institutions; financial or insurance companies; physicians, dentists, architects, engineers, attorneys, real estate, or allied professions provided that:
  - 1. the applicant can demonstrate adequate off-street parking facilities,
  - 2. that selling of merchandise extraneous to the profession will not occur on the premises, and
  - 3. that structures originally constructed to serve as residences remain unaltered.

### Section 3: ACCESSORY USES

See Article XIII, Section 3.

### Section 4: AREA, HEIGHT, SETBACKS, AND YARD REGULATIONS

- A. Minimum Lot Area – 5,500 square feet or 3,000 square feet per family in a multiple family structure.
- B. Permitted Height of Main Building – Twenty-five (25) feet. May be increased to thirty-five (35) feet with a reciprocal front and rear yard setback of twenty-five (25) feet each.
- C. Minimum Yards and Setbacks
  - 1. Front: Twenty (20) feet.
  - 2. Side: Ten (10) feet. Lots legally platted prior to 1950 may utilize a five (5) foot setback on one (1) side yard if the side yards combined equal at least fifteen (15) feet.
  - 3. Rear: Twenty (20) feet.
- D. Minimum Lot Width: Sixty (60) feet.
- E. Maximum Lot Coverage Standard – 33 percent.

# ARTICLE VIII

## GENERAL COMMERCIAL (C-1) DISTRICT

### SECTION 1: PERMITTED USES

- A. Retailing and wholesaling activities including public and private professional services provided within the confines of an office type environment.
- B. Second floor residences so long as the first floor activities fit all other applicable regulations set forth in this article and that at least one (1) off-street parking stall is provided per residence.
- C. Clinics.
- D. Clubs or lodges.
- E. Commercial establishments.
- F. Offices.
- G. Service establishments
- H. Governmental services.
- I. Churches.

*J. NURSING HOMES, SANATORIUMS, & SHELTER CARE HOMES, PROVIDED THAT NO # PENAL OR CORRECTIONAL INMATES ARE HOUSED WITHIN SEE ORDINANCE 2066*

*see #2130  
"K"*

### Section 2: USES REQUIRING SPECIAL USE PERMITS

- A. Automobile dismantling (junk yards) with screening.
- B. Utility sub-stations with screening.
- C. Commercial establishments with drive through accommodations.
- D. Automobile banking facilities.
- E. Taverns, bars, or other establishments that serve alcoholic beverages on the premises.
- F. Multiple family dwellings.
- G. Combined retail or wholesale and manufacturing operations where the manufacturing portion of the use is incidental to the principal use and involves not more than five (5) persons employed in the manufacturing activity.
- H. Coin operated amusement centers or establishments where coin operated game machines occupy more than fifteen (15) percent of the floor area of the building.
- I. Buildings with heights in excess of fifty (50) feet.

### Section 3: ACCESSORY USES

See Article XIII, Section 3.

### Section 4: AREA, HEIGHT, SETBACK, AND YARD REGULATIONS

- A. Minimum Lot Area – None.
- B. Permitted Height of Main Building – Fifty (50) feet.
- C. Minimum Yards and Setbacks.
  - 1. Front – None when lot front abuts local street and thirty (30) feet when lot front abuts state maintained highway.
  - 2. Side – None except when lot abuts residential district, then ten (10) feet is required. The City of Marion Fire Department must verify that access to all points of the structure is possible if less than five (5) feet is proposed. The City's engineer must be contacted to verify that intersection sight lines will not be obstructed on corner or through lots. The City's engineer will establish necessary setbacks in that regard.
  - 3. Rear – Same as side yard.
- D. Minimum Lot Width – Thirty (30) feet.
- E. Maximum Lot Coverage Standard – 50 percent.

# ARTICLE IX

## HIGHWAY COMMERCIAL (C-2) DISTRICT

### Section 1: PERMITTED USES

- A. Restaurants.
- B. Motels.
- C. Gasoline service stations.
- D. Automobile and truck sales and service centers.

### Section 2: USES REQUIRING SPECIAL USE PERMITS

All permitted and special uses listed in Article VIII.

### Section 3: ACCESSORY USES

See Article XIII, Section 3.

### Section 4: AREA HEIGHT, SETBACK, AND YARD REGULATIONS

- A. Minimum Lot Area – 10,000 square feet.
- B. Permitted Height of Main Building – Fifty (50) feet.
- C. Minimum Yards and Setbacks –
  - 1. Front – Thirty (30) feet from abutting street right of way and seventy-five (75) feet from any state maintained highway right of way.
  - 2. Side – None except where lot abuts residential district, then ten (10) feet is required. The City of Marion Fire Department must verify that access to all points of the structure is possible if less than five (5) feet is proposed. The City's engineer must be contacted to verify that intersection sight lines will not be obstructed on corner or through lots. The City's engineer will establish necessary setbacks in that regard.
  - 3. Rear – Same as side yard.
- D. Minimum Lot Width – Seventy-five (75) feet.
- E. Maximum Lot Coverage Standard – 50 percent.

# ARTICLE X

## INDUSTRIAL (I) DISTRICT

### Section 1: PERMITTED USES

- A. Assembly, manufacturing, or processing of any commodity from semifinished materials provided explosives, flammable gases or liquids, or live animals are not involved.
- B. Governmental uses.
- C. Research and development facilities not involving explosives, or flammable gases or liquids, or live animals.
- D. Service stations (Exception: Only by special use permit when affected by Airport Overlay District).
- E. Transportation facilities.
- F. Warehousing or wholesaling of goods except explosives, flammable gases or liquids, or live animals.
- G. *FULL SERVICE RECYCLING FACILITY WITH AUTOMOBILE SHREDDER*

### Section 2: USES REQUIRING SPECIAL USE PERMITS

- A. Assembly, manufacturing, processing, warehousing, or wholesaling involving explosives, flammable gases or liquids, or live animals.
- B. Automobile dismantling but only in accordance with the following conditions:
  - 1. No part of any automobile dismantling operation, which includes any lot on which three (3) or more inoperable vehicles are stored shall be closer than five hundred (500) feet to the boundary of any residential district.
  - 2. All vehicles, parts, and equipment shall be stored within a completely enclosed structure or within an area screened by a wall or solid fence at least ten (10) feet high or of a sufficient height greater than ten (10) feet to screen the view from adjacent property.
- C. Research and development facilities involving explosives, flammable gases or liquids, or live animals.

### Section 3: AREA, HEIGHT, SETBACK, AND YARD REGULATIONS

- A. Minimum Lot Area – Ten thousand (10,000) square feet.
- B. Permitted Height of Main Building – Sixty (60) feet.
- C. Minimum Yards and Setbacks –
  - 1. Front: Ten percent (10%) of the lot width or depth or whichever is greater.
  - 2. Side: None, except ten (10) feet when adjacent to any other zone district. The City of Marion Fire Department must verify that access to all points of the structure is possible if less than five (5) feet is proposed. The City's engineer must verify that intersection sight lines will not be obstructed on corner or through lots and will set the setback requirement in that regard.
  - 3. Rear: Same as side yard.
- D. Minimum Lot Width – None, except as provided in Article III-8.
- E. Maximum Lot Coverage Standard – 50 percent.

### Section 4: NUISANCE RESTRICTIONS

No production, processing, cleaning, servicing, testing, repair, sale, or storage of goods, materials, or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties or the community as a whole. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission of smoke, emission of toxic gases, excessive glare, and noxious odors. ~~All production, processing, cleaning, servicing, testing, repair, or storage activities shall be conducted entirely within enclosed buildings.~~

## **ARTICLE XI**

### **FLOOD PLAIN OVERLAY (FPO) DISTRICT**

The City of Marion participates in the National Flood Insurance Program as administered by the Federal Emergency Management Agency (FEMA). FEMA has prepared a set of maps entitled "City of Marion Floodway – Flood Boundaries (Effective September 15, 1983)" which depicts the extent of the 100 year flood. The maps are incorporated into this ordinance by reference, and the extent of the 100 year flood boundaries constitute the boundaries of the Flood Plain Overlay District. No development is permitted in the Flood Plain Overlay District, regardless of the underlying zone district, except in conformity with City of Marion Ordinance #1033. The administrator will interpret the extent of the Flood Plain Overlay District at the time of zone clearance (See Article XVI - Section 3).

## **ARTICLE XII**

### **AIRPORT OVERLAY (APO) DISTRICT**

The purpose of this district is to coordinate the land use control functions of the City of Marion and the Williamson County Regional Airport. Uses proposed in areas designated as Airport Overlay District (APO) on the official zoning map are additionally subject to the provisions of the Williamson County Regional Airport Zoning Ordinance as enabled by the Airport Zoning Act of 1945. In this regard, all requests for development permits, including building permits, planned unit development permits, or special use permits, or requests for zone changes, amendments, or variances within the APO district shall receive the concurrent review of the City of Marion and the Williamson County Airport Authority. Upon receipt of a request for a development permit of any kind, zone change, amendment, or variance under the provisions of this ordinance located within the APO district by the City of Marion, the City will forward a copy of the request in its entirety to the airport authority. The airport authority will be extended up to fifteen (15) days to review the request for conformity with the provisions of the airport zoning ordinance during which period the City will take no further action. A statement of consistency from the airport authority or a lapse of fifteen (15) days without comment will release the City to continue the routine processing of the request. Should the airport authority determine upon review that the request is not in compliance with the airport zoning ordinance an objection may be filed with the City. Upon receipt of an objection the administrator will arrange a timely joint meeting of the Zoning Board of Appeals and duly authorized representatives of the airport authority which will investigate the circumstances of the objection and seek alternative approaches to the requested action, if any, that could be employed to satisfy the objection. All parties affected by the request, including counsel, may attend and participate in said joint meeting. The Zoning Board of Appeals will record all comments and will attach said comments to an advisory report, including findings of fact, to be forwarded to the City Council. Should the objection not be resolved by this method, the City Council will uphold the objection and deny the request if the objection is based on a more restrictive regulation. In all cases of interpreting any differences between the two ordinances, the more restrictive regulations will apply so long as the regulations are based on safety hazards or noise considerations as identified by the airport zoning ordinance.

# ARTICLE XIII

## SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES

### Section 1: APPLICABILITY OF ARTICLE

This Article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome, structures and uses. These regulations apply to every zoning district where the specified structure or use is permitted or allowed by special use permit; but if more stringent regulations are applicable in any particular district, such regulations shall prevail.

### Section 2: RESIDENTIAL BUILDINGS ON LOT

Not more than one (1) principal detached residential dwelling shall be located on a lot, nor shall any principal detached residential dwelling be located on the same lot with any other principal building.

### Section 3: ACCESSORY USES

Any accessory use shall be deemed permitted in a particular zoning district if such use:

- A. Is subordinate in size and purpose to the principal structure or use which it serves.
- B. Is accessory to a principal structure or use that is allowed in a particular zoning district as a permitted or special use; and
  1. Height: No accessory use shall be higher than;
    - a. twenty (20) feet in the R1 district, or
    - b. fifteen (15) feet in all other residential districts, or
    - c. twenty-five (25) feet in any other zoning district except the Rural-Agricultural district where, due to the special needs of farm operations, there shall be no height limit on accessory structures.
  2. Setbacks: No accessory use shall be located in any part of a required yard excepting that in residential zone districts, an accessory use may be located as close as three (3) feet to a side or rear lot line when said structure is also located in the rear one-third of the subject lot.
  3. Yard Coverage: In any residential district, accessory uses shall not cover more than thirty (30) percent of a required yard.
  4. Use As A Dwelling: Use of an accessory structure as a dwelling is prohibited in the City of Marion.

### Section 4: ANIMAL KEEPING

#### A. Horse Keeping

1. No horse keeping is permitted on any lot existing prior to the adoption of this ordinance which is less than 20,000 square feet.
2. Two (2) horses are permitted on lots exceeding 20,000 square feet but do not exceed 30,000 square feet. One additional horse is permitted for each additional 5,000 square feet of lot area.
3. For the purposes of this section, two (2) ponies shall count as one (1) horse, except that each pony in excess shall be counted as one (1) horse.
4. A foal less than one (1) year old, maintained in the company of its mother, will not be counted in determining compliance with this section.
5. Horses up to twice the number normally allowed on a parcel of land may be kept on a temporary basis of up to one (1) week but not more frequently than every thirty (30) days.
6. Any area where horses are kept shall not be less than fifty (50) feet from any habitable dwelling on the same parcel, two hundred (200) feet from any habitable dwelling(s) on adjacent parcels, and two hundred (200) feet from any church, school, hospital/clinic, or where foods are processed, stored, kept, manufactured, or served to the public.

7. The design of the horse keeping facility will be reviewed by the City Council as part of the special use permit process.
- B. Other Animal Keeping for Hobbies, Agricultural Projects, or Home Occupations.
1. Any area where animals other than horses are kept for hobby purposes, agricultural projects, or home occupations shall not be located within 200 feet of any habitable dwelling(s) on adjacent parcels, any church, school, hospital/clinic, or where foods are processed, stored, kept, manufactured, or served to the public.
  2. The design of any animal keeping facility shall be reviewed by the City Council as part of the special use permit process.

### Section 5: MOBILE HOME REGULATIONS

A. Mobile homes on individual lots

1. Not more than one (1) mobile home shall be placed on any individual lot, nor shall any mobile home be placed on any individual lot wherein another principal building exists.
2. Every mobile home shall be placed on a four (4) inch or greater reinforced concrete slab to provide it with adequate support. A comparable alternative support system is permissible upon certification by the City's engineer.
3. Anchors capable of withstanding a vertical tension force of four thousand eight hundred (4,800) pounds shall be installed at the corners of every mobile home support slab or as otherwise necessary for protection against high winds. Every mobile home shall be tied down to such anchors.
4. Every mobile home shall be skirted with a weather resistant material. The skirting shall be equipped with an inspection door at least twenty-four (24) inches wide to allow access to the underside of the home.

B. Mobile home parks

1. Regulations that apply to mobile homes placed on individual lots, as specified in Section 2-A, also apply to mobile homes placed within mobile home parks.
2. A coin operated laundromat which is solely intended to serve the mobile home park is permitted within the confines of the park.

### Section 6: FENCES, WALLS

A. Barbed Wire, Electrical Fences

1. In connection with agricultural uses, barbed wire and electrically charged fences are permitted.
2. In connection with nonagricultural uses, barbed wire and electrically charged fences may be allowed by special use permit after a public hearing.

B. No fence, wall, or other obstruction shall be erected within any public right-of-way, except by written permission of the Administrator.

C. No fence, wall, or other obstruction shall be erected in violation of the Illinois Drainage Code (*Illinois Revised Statutes, Chapter 42, Section 1-1, seq.*).

D. Every fence, wall, or other obstruction shall conform to the special height restrictions applicable in areas near intersections (See Article III-10B).

E. No fence shall exceed thirty-six (36) inches in height when placed in the front third of any residentially zoned lot.

### Section 7: HOME OCCUPATIONS

A "home occupation" means any business, profession, or occupation conducted for gain or support entirely within any dwelling or on any residential premises. Within this municipality every home occupation shall be considered a special use. No home occupation shall be established or conducted except in conformity with the following regulations:

- A. Unrelated Employees – A home occupation shall not employ any individuals who are unrelated to the family residing on the premises.
- B. Floor Space – The total area used for a home occupation conducted in a dwelling shall not exceed twenty-five percent (25%) of the gross floor area of said dwelling, or three hundred (300) square feet, whichever is less.
- C. Dwelling Alterations – In any residential district, a dwelling shall not be altered to accommodate a home occupation in such a way as to materially change the residential character of the building.
- D. Outdoor Storage – Outdoor (unenclosed) storage on the premises of equipment or materials used in connection with a home occupation is prohibited.
- E. Nuisances – A home occupation shall not generate any offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical interference noticeable at or beyond the lot lines.
- F. Parking – See Article XIV.
- G. Signs – A home occupation may display only one non-illuminated flat mounted identification sign. The area of the sign shall not exceed six (6) square feet.

### Section 8: KENNELS

- A. The lot on which any kennel is situated shall have a minimum area of three (3) acres.
- B. Every kennel shall be located at least fifty feet (50') from a habitable dwelling on the same lot, at least two hundred (200) feet from the nearest dwelling on an adjacent lot, and at least one hundred (100) feet from any lot line.

# ARTICLE V

## SINGLE FAMILY RESIDENTIAL (R-1) DISTRICT

### Section 1: PERMITTED USES

- A. Conventionally built single family residences.
- B. Public parks and playgrounds.
- C. BED & BREAKFAST ESTABLISHMENT

### Section 2: USES REQUIRING SPECIAL USE PERMITS

- A. Churches.
- B. Governmental uses.
- C. Schools.
- D. Utility sub-stations with screening.

### Section 3: ACCESSORY USES

See Article XIII, Section 3.

### Section 4: AREA HEIGHT, SETBACK, AND YARD REGULATIONS

- A. Minimum Lot Area – 7,000 square feet.
- B. Permitted Height of Main Building – Twenty-five (25) feet. May be increased to thirty-five (35) feet with a reciprocal front and rear yard setback of twenty-five (25) feet each.
- C. Minimum Yard Setbacks –
  - 1. Front – Twenty (20) feet from any property line adjoining any public street.
  - 2. Side – Ten (10) feet.
  - 3. Rear – Twenty (20) feet.
- D. Minimum Lot Width – Seventy (70) feet.
- E. Maximum Lot Coverage Standard – 25 percent.

### Section 5: PROHIBITED USES

- A. Mobile Homes.

# ARTICLE XIV

## OFF-STREET PARKING AND LOADING

### Section 1: APPLICABILITY OF ARTICLE

Off-street parking and loading shall be provided in accordance with this article for all structures and uses erected or established after the effective date of this ordinance.

#### A. Existing Parking/Loading Facilities

1. Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced – or further reduced – below the requirements and standards for similar new structures or uses per this ordinance.
2. When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored, but additional parking/loading facilities need not be provided.
3. Whenever the use of any structure or premises is intensified through the addition of dwelling units, increased floor area, greater seating capacity, etc., additional parking and loading facilities commensurate with such increases in use-intensity shall be provided.
4. Whenever the existing use of a structure is changed to a different use, parking or loading facilities shall be provided as required herein for such new use.

### Section 2: PARKING LOT STANDARDS

- A. **Spaces** – Each required off-street parking space shall be at least ten (10) feet wide and twenty (20) feet long, and shall have at least seven (7) feet of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way.
- B. **Interior Aisles** – Aisles within parking lots shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of the parking spaces. Aisles designated for two-way traffic shall be at least twenty-five (25) feet wide. One way aisles designated for sixty (60) degree parking shall be at least eighteen (18) feet wide.
- C. **Access Ways**
  1. Parking lots shall be designed so that ingress to or egress from a parking space is from an aisle or driveway, not directly from the public right-of-way.
  2. No access way to any parking lot shall be located within thirty (30) feet of any corner formed by the intersection of the rights-of-way of two or more streets. At intersections where traffic control devices are installed the Administrator may increase this requirement as necessary to prevent hazards.
  3. Parking area access ways and public streets shall be aligned to form, as closely as feasible, right angles.
  4. The access way to every parking lot containing sixteen (16) or more parking spaces shall be at least twenty-four (24) feet wide unless two one-way drives, each twelve (12) feet wide, are provided. The access way to any parking lot containing fewer than sixteen (16) parking spaces shall be at least eighteen (18) feet wide.
- D. **Surfacing** – Parking lots shall be graded and improved with a compacted stone base at least four (4) inches thick. A permanent all-weather surface is recommended. The City Council will permit the City's engineer to recommend surface materials and make appropriate surface drainage recommendations upon request.

### Section 3: LOCATION OF OFF-STREET PARKING

- A. **For Dwellings** – Parking spaces accessory to dwellings shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any required front yard except in the driveway, but may be located in the side or rear yards. Each parking space accessory to a multiple family dwelling shall be constructed so that no vehicle need to be moved in order to allow another vehicle to enter/exit the parking area.

- B. **For Commercial/Industrial Uses** – In the Commercial or Industrial Districts, off-street parking facilities for different buildings or uses may be provided collectively; but only if the total number of spaces located together is not less than the sum of the separate requirements for each use (See Section 5).

#### Section 4: COMPUTATION OF REQUIRED PARKING SPACES

In computing the number of parking spaces required by this ordinance, the Administrator shall apply the following rules:

- A. In computing parking space requirements based on the number of employees, the maximum number of employees on the premises at any period of the day shall be used. "Employee parking" means "one parking space shall be required per one and one-half (1.5) employees," unless otherwise stated.
- B. In computing parking space requirements on the basis of building floor area, the gross floor area shall be used (See Table 3).
- C. Whenever it is necessary to translate gross parking lot area into number of parking spaces, three hundred fifty (350) square feet of gross area shall be deemed one parking space.
- D. If computation of the number of parking spaces required by this ordinance results in a fractional space, any fraction of one-half or more shall be counted as one space.
- E. No space or portion thereof needed to satisfy the minimum applicable requirement for number of off-street parking spaces shall be counted as part of the off-street parking spaces required for another structure or use.

#### Section 5: DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES

If provided, all off-street facilities shall conform to the minimum standards indicated below:

- A. **Size of Space** – Every off-street loading space shall be at least twelve (12) feet wide and sufficiently long to accommodate the type of vehicle expected to use the space. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.
- B. **Access Way** – Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least twelve (12) feet wide.
- C. **Surfacing** Every off-street loading area shall be improved with a compacted stone base at least seven (7) inches thick.

#### Section 6: NUMBER OF PARKING SPACES REQUIRED

Off-street parking spaces shall be provided as indicated in the table below. For any use that is not listed in the table, the same number of parking spaces shall be provided as is required for the most similar listed use. The Administrator shall make the determination of similarity.

TABLE 3  
Parking Standards

Use	Parking Spaces
<b>A. Dwelling, Lodgings:</b>	
1. Hotels, motels, boarding houses, lodges	1 space per lodging unit, plus employee parking
2. Mobile homes	2 spaces per mobile home
3. Multiple family dwellings	
a. 1 bedroom or less	1.5 spaces per dwelling
b. 2 or more bedrooms	2 spaces per dwelling
4. Single family dwellings	2 spaces per dwelling
<b>B. Educational, Institutional, and Recreational:</b>	
1. Churches	1 space per 4 seats in the largest seating area
2. Hospitals	1 space per 2 beds, plus employee parking
3. Libraries, Museums	1 space per 500 square feet of floor area
4. Nursing homes	1 space per five beds
5. Schools	1 space for every 10 students that the building is designed to accommodate, plus employee parking

**C. Commercial, Office, Service:**

- |  |   |
|--|---|
| 1. All Commercial, office, or service uses unless specifically indicated otherwise below | 1 space per 300 square feet of floor area   |
| 2. Banks, savings and loans  |   |
| a. Walk-in   | 1 space per 300 square feet of floor area, plus employee parking  |
| b. Drive-through   | 1 space per teller window   |
| 3. Beauty and barber shops   | 2 spaces per chair, plus employee parking   |
| 4. Furniture and appliance stores  | 1 space per 600 square feet of floor area   |
| 5. Home occupations  | 1 space which is optional but not more than 1 space   |
| 6. Offices, medical/dental   | 1 space per 200 square feet of floor area or 3 spaces per professional whichever is greater             |
| 7. Mortuaries  | 1 space per five seats plus one space per funeral vehicle but not less than 20 spaces per chapel        |
| 8. Restaurants:  |   |
| a. Sit-down  | 1 space per 4 seats or 1 space per 50 square feet of floor area whichever is greater                    |
| b. Drive-in  | 1 space per 25 square feet of floor area  |
| 9. Service stations  | 2 spaces per service stall plus employee parking  |
| 10. Taverns  | 1 space per 4 seats or 1 space per 50 square feet of floor area whichever is greater                    |
| 11. Theatres   |   |
| a. Indoor  | 1 space per 4 seats   |
| Drive-in   | On review by the Administrator  |
| 12. Vehicle sales (automobiles, boats, trailers, etc.                                    | 1 space per 600 square feet of enclosed floor area, plus 1 space per 2,500 square feet of open lot area |

**D. Industrial**

- |                          |  |
|--------------------------|--|
| 1. Related to personnel  | 1 space for each managerial, clerical, or administrative employee plus 1 space for each 2 employees not otherwise classified, or |
| 2. Related to floor area | 1 space for each 600 square feet of gross floor area<br>(either method optional to industry)                                     |

# ARTICLE XV

## NONCONFORMITIES

### Section 1: PURPOSE OF ARTICLE

The requirements imposed by this ordinance are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located tend to impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaxing of parking facilities, the creation of nuisances, and/or the lowering of property values. The regulations of this article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.

### Section 2: NONCONFORMING LOTS

Any vacant lot that does not conform to one or more of the lot size (area, dimensions) requirements of the district in which it is located may, nonetheless, be developed for any use permitted in that district if such vacant lot;

- A. was recorded in the Williamson County Recorder of Deeds Office prior to the enactment of this ordinance, and
- B. is at least thirty (30) feet wide.

If two or more lots or combinations of lots with continuous street frontage were of record and in common ownership on the effective date of this ordinance, and if one or more of those lots does not meet the minimum lot width, depth, or area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed (used) except in compliance with this ordinance, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this ordinance.

### Section 3: NONCONFORMING STRUCTURES

Any otherwise lawful structure which exists on the effective date of this ordinance but which could not be erected under the terms of this ordinance because of requirements/restrictions concerning lot size, height, setbacks, or other characteristics of the structure or its location on the lot may lawfully remain, subject to the following provisions:

- A. **Maintenance** – A nonconforming structure may be maintained by ordinary repairs.
- B. **Enlargement, Alterations** – A nonconforming structure may be enlarged and/or altered, provided that:
  - 1. Such enlargement and/or alteration is confined within the lot lines of the property in question as such lot lines existed on the effective date of this ordinance; and
  - 2. Such enlargement and/or alteration does not increase or worsen the nonconforming characteristics of the structure.
- C. **Reconstruction** – a nonconforming structure that is damaged or destroyed may be rebuilt, provided that:
  - 1. Reconstruction commences within one year from the date of damage/destruction and is diligently pursued to completion; and
  - 2. The structure, when reconstructed, will not be more nonconforming than it had been.

If reconstruction does not commence within one year or is not diligently pursued to completion, as determined by the Administrator, the damaged structure shall be considered abandoned. Reconstruction at that point shall be allowed only if the structure will be rebuilt in conformity with the provisions of this ordinance which are applicable to new structures.

- D. **Relocation:** A nonconforming structure shall not be moved to another lot unless, after relocation, it will conform to all the regulations of the district where it will be situated.

#### Section 4: NONCONFORMING USES

Any otherwise lawful use existing on the effective date of this ordinance that would not be permitted under the terms of this ordinance may lawfully continue, subject to the following provisions:

- A. **Expansion/Intensification:** A nonconforming use which does not occupy a structure (such as a plant nursery) may be expanded/intensified, but only within the confines of the lot lines as such lot lines existed on the effective date of this ordinance. A nonconforming use which occupies a structure may be expanded or intensified, but only within that structure and/or within any conforming addition to said structure. (For rules concerning expansion of nonconforming structures, See Section 3-B above).
- B. **Reestablishment** – a nonconforming use which is destroyed or damaged may be reestablished. However, if the owner of said damaged/destroyed use proposes to expand, relocate, or change it, then the other pertinent paragraphs of this section shall control. Moreover, if no significant steps have been taken to reestablish the use within one year from the date the damage occurred, then the use shall be considered abandoned and subject to the provisions of Paragraph (E) of this section.
- C. **Relocation** – A nonconforming use shall not be moved, in whole or in part, unless, upon relocation, it will conform to all pertinent regulations of the district in which it will be relocated.
- D. **Change of Use** – A nonconforming use may continue, but shall not be changed except to a use that is permitted under the applicable district regulations.
- E. **Discontinuance** – When a nonconforming use is discontinued for a period of twelve (12) months, it shall not thereafter be resumed. Any subsequent use shall conform to the uses permitted in the applicable zone district.

#### Section 5: NONCONFORMITIES UNDER PERMIT AUTHORITY

The regulations of this article shall not affect the terms of any permit issued prior to the effective date of this ordinance or any pertinent amendment thereto provided that the work authorized by such permit is completed within a reasonable time.

# ARTICLE XVI

## SPECIAL PROCEDURES AND PERMITS

### Section 1: BOARD OF APPEALS

The Zoning Board of Appeals of Marion is hereby established in accordance with Illinois Law (See Illinois Revised Statutes; Chapter 24, Section 11-13-3).

- A. **Membership, Appointment, Compensation** – The Board of Appeals shall consist of seven members. Each board member shall be appointed by the Mayor with the advice and consent of the City Council. One of the members so appointed shall be named as chairman at the time of appointment. Each board member shall receive for services such compensation, if any, as is determined from time to time by the Council.
- B. **Term of Office, Vacancies** – Each board member shall hold office for five (5) years from the date of appointment, and until a successor has been selected and qualified; provided, however, that the initial appointees to the Board shall serve respectively for the following terms: one for one (1) year, one for two (2) years, one for three (3) years, one for four (4) years, one for five (5) years, one for six (6) years, and one for seven (7) years. With the advice and consent of the City Council, the Mayor may remove any member on the Board of Appeals for cause, after a public hearing. Vacancies on the Board shall be filled for the unexpired terms of the member whose place has become vacant in the same manner as provided for the appointment of new members.
- C. **Meetings, Quorum** – All meetings of the Board of Appeals shall be held at the call of the Chairman and at such time as the Chairman may determine. All Board meetings shall be open to the public. The Board may adopt their own rules of meeting procedures consistent with this ordinance and the applicable Illinois Statutes. The Board may select such officers as they deem necessary. The Chairman, or in his absence an Acting Chairman, may administer oaths and compel the attendance of witnesses. Four members of the Board shall constitute a quorum, and the affirmative vote of at least four members shall be necessary to authorize any Board action. Representatives of the Marion School District or the owner(s) of land located within 250 feet of any land subject to Board public hearings may appear and give testimony concerning prospective or requested actions.
- D. **Records** – The Board shall keep minutes of its proceedings and examinations. These minutes shall indicate the presence or absence of members, the vote, including abstentions, of each member of each question, and any official action taken. A copy of every rule, variance, order, or decision of the Board shall be filed with the City Clerk and shall be of public record.

### Section 2: ADMINISTRATOR – DUTIES AND RESPONSIBILITIES

The Mayor, with the consent of the City Council, will appoint a zoning administrator who will administer the day to day functions of the zoning ordinance. The administrator will receive and record all applications for permits and clearances authorized under this ordinance. The administrator will issue zone clearances upon applicant satisfaction of the zoning requirements. The administrator is additionally authorized to grant relief of up to ten (10) percent from any zoning requirement involving setbacks, heights, or parking when the zoning procedure does not involve the Zoning Board of Appeals, City Council, or Williamson County Regional Airport Authority.

### Section 3: ZONE CLEARANCE

A zone clearance shall be issued by the Administrator prior to the issuance of a building permit(s). An approved zone clearance shall indicate that a proposed use, lot, and/or structure is in compliance with the provisions of this ordinance. The Administrator shall not issue a zone clearance in any instance requiring action by the Zoning Board of Appeals and/or City Council prior to their final actions(s).

### Section 4: SPECIAL USE PERMITS

This ordinance divides the City into various districts, and permits in each district as a matter of right only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation, and other factors. Such "special uses" require careful case-by-case review and may be allowed only by permission of the City Council.

A. **Application** – Every applicant for a special use permit shall submit to the Administrator, in narrative and/or graphic form, the items of information enumerated below. The Administrator shall prepare an advisory report on every request for a special use permit. He shall promptly transmit the completed application and his advisory report to the Board of Appeals. A filing fee is required and is presented on the schedule of fees which may be amended from time to time by the City Council. Application forms will be made available by the City Clerk and/or Administrator.

**Items of Information**

1. Name and address of the applicant;
2. Name and address of the owner or operator of the proposed structure or use, if different from (1);
3. Nature of the proposed issue, including type of activity, manner of operation, number of occupants or employees, and similar matters;
4. Location of the proposed use or structure, and its relationship to existing adjacent uses or structures;
5. Area and dimensions of the site for the proposed structure or uses;
6. Existing topography of the site (USGS ten foot contour data is acceptable), and proposed finished grade;
7. Height and setbacks of the proposed structure;
8. Number and size of proposed dwelling units, if any;
9. Location and number of proposed parking/loading spaces and access ways;
10. Identification and location of all existing or proposed utilities, whether public or private; and/or
11. Any other pertinent information that the Administrator may require.

B. **Public Hearing, Notice** – The Board of Appeals shall hold a public hearing on every special use permit application within a reasonable time after said application is submitted to them. The applicant for a special use permit shall provide a list of names and addresses of the parties whose property abuts the proposed special use. The Chairman of the Board of Appeals shall have the responsibility of scheduling the public hearings and sending out notices to that effect. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of hearing, and the nature of the proposed special use shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing;

1. by first class mail to the applicant and to all parties whose property abuts the proposed special use;
2. by publication in a newspaper of general circulation within the City.

C. **Advisory Report, Factors Considered** – Within a reasonable time after the public hearing, the Zoning Board of Appeals shall submit their advisory report to the Council. In deciding what their advice should be, the Board of Appeals shall consider the following factors:

1. whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;
2. the effect the proposed special use would have on the value of neighboring property and on the City's overall tax base;
3. the effect the proposed special use would have on public utilities and on traffic circulation on nearby streets; and
4. whether there are any facilities near the proposed special use (such as schools or hospitals) that require special protection.

D. **Action By Council** – The Council shall act on every request for special use permits at their regularly scheduled meeting following submission of the Board of Appeals' Advisory Report. Without further public hearing, the Council may grant a special use permit by simple majority vote of all members then holding office. In a separate statement accompanying the permit, the Council shall state their findings of fact, and indicate their reasons for approving (with or without conditions) or denying the request for a special use permit.

E. **Duration** – A special use permit may be issued for a period up to eight (8) years and may be extended by the same process for subsequent ten (10) years periods.

## Section 5: TEMPORARY USE PERMITS

Requests for temporary use permits shall be treated in substantially the same manner as requests for special use permits. The Council shall not initially issue any temporary use permit for a period longer than one year, but they may renew any such permit as they see fit.

## Section 6: PLANNED UNIT DEVELOPMENT PERMITS (PUD)

- A. **Purpose** – The purpose of the planned unit development permit is to offer a method whereby land may be designed and developed as a unit for residential, commercial, or industrial uses by taking advantage of current up-to-date site planning techniques.
- B. **Procedure and Conditions for Permits** – An applicant may submit an application for a planned unit development to the administrator. A complete set of scaled development plans shall accompany the application which shows the proposed uses of the property including the dimensions and locations of all proposed structures, parking areas and spaces, landscaped areas, streets and internal circulation systems, parks, playgrounds, school sites, open spaces, and other features found to be appropriate by the administrator. If the development is to be phased, the development sequences shall be depicted.

The administrator shall be available to meet informally with the prospective developer prior to the submission of the application and development plan in order to explain the planned unit development process and standards. The applicant will adhere to the following standards in the preparation of the development plan:

### 1. In residential planned developments:

- a. there will not be more than the average number of units per acre than that permitted in the overriding zone for single family developments or more than sixteen (16) units per acre for multiple family developments,
- b. the parking standards established in this ordinance shall be maintained,
- c. no structure shall be constructed less than twenty (20) feet from any perimeter street and if any unit in the planned development exceeds twenty-five (25) feet in height, the perimeter street setback shall be increased by five (5) feet for each additional ten (10) feet in height or portion thereof.

### 2. In commercial and industrial planned developments:

- a. the standards for parking, loading and unloading, and circulation as established by this ordinance shall be maintained,
- b. roof-mounted equipment, ground-mounted equipment, and trash storage areas shall be screened,
- c. signage shall be integrated into the architectural design of the development,
- d. perimeter plantings shall be in raised beds at least five (5) feet in width bordered by a six (6) inch raised concrete curb.

All development plans will demonstrate how the proposed development will minimize land use conflicts with surrounding properties and/or how the proposed development can be integrated into an existing neighborhood without disruption of the existing environment.

The administrator is prohibited from accepting a planned unit development permit application unless the overriding zone district is appropriate to the planned use.

Upon receipt of the planned unit development permit application the administrator shall prepare a report identifying how the proposal complies with the standards as set forth in this ordinance. The report shall also include proposed conditions to be appended to the permit. The administrator shall forward the application, development plan, and report to the Zoning Board of Appeals who will conduct a public hearing on the proposed planned unit development permit upon advertising that such a meeting will be held not less than fifteen (15) days or more than thirty (30) days from the date of publication within a newspaper of general circulation in Marion, Illinois. Owners of real property or tenants within two hundred fifty (250) feet of the planned unit development, the Marion School District, the Williamson County Soil and Water Conservation District, and the Williamson County Regional Airport Authority (when the Airport Overlay District is involved) by right will be extended the opportunity to present testimony at the public hearing. The Zoning Board of Appeals will maintain a set of minutes from the public hearing and

will prepare a summary report including its own recommendations for the Mayor and City Council. The Mayor and City Council may issue the planned unit development permit with the proposed conditions, add additional conditions that it finds appropriate and approve the permit, or deny the permit.

### Section 7: AMENDMENTS

- A. **Amendments** – The Council may amend this ordinance in accordance with State Law (*Illinois Revised Statutes, Chapter 24, Sections 11-13-14*) and the provisions of this section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special, prohibited) shall be deemed proposed amendments. Amendments may be proposed by the Council, Administrator, the Board of Appeals, or any party in interest.
- B. **Filing** – Every proposal to amend this ordinance shall be filed with the Administrator on a prescribed form. (Every amendment proposal shall also be filed with the Soil and Water Conservation District as per *Illinois Revised Statutes, Chapter 5, Section 127.2a*. The Administrator shall promptly transmit said proposal together with any comments or desired recommendations, to the Board of Appeals who will conduct a public hearing. A filing fee is required.
- C. **Public Hearing, Notice** – The Zoning Board of Appeals shall hold a public hearing on every amendment proposal within a reasonable time after said proposal has been submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed amendment shall be given not more than thirty (30) days nor less than fifteen (15) days before the hearings:
1. by publication in a newspaper of general circulation within the City; and
  2. when the amendment involves a rezoning, not a text amendment; by first class mail to all parties whose property abuts the property(ies) for which rezoning is requested.
- D. **Advisory Report, Findings of Fact** – Within a reasonable time after the public hearing, the Board of Appeals shall submit their Advisory Report to the Council. The report shall state the Board of Appeals' recommendations regarding adoption of the proposed amendment, and their reasons therefore. If the effect of the proposed amendment, and their reasons therefore. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Board of Appeals shall include in their Advisory Report findings of fact concerning each of the following matters:
1. existing use(s) and zoning of the property in question;
  2. existing use(s) and zoning of other lots in the vicinity of the property in question;
  3. suitability of the property in question for uses already permitted under existing regulations.
  4. suitability of the property in question for the proposed use; and
  5. the trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since the property was initially zoned or last rezoned.
- E. **Action by Council** – The Council shall act on every proposed amendment at their next regularly scheduled meeting following submission of the Board of Appeals Advisory Report. Without further public hearing the Council may pass or deny any proposed amendment or may refer it back to the Board of Appeals for further consideration by simple majority vote of all the members then holding office.

**EXCEPTION:** The favorable vote of at least two-thirds of all the members of the Council is required to pass an amendment to this ordinance when the proposed amendment is opposed, in writing, by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered (*Illinois Revised Statutes, Chapter 24, Sections 11-13-14*).

**EXCEPTION:** The City Council may amend the Rural Agricultural Zone District to the Industrial Zone by suspension of the above procedures upon a finding of fact at the City Council level that the community's economic development will be enhanced by the amendment. The City Council may initiate the proceeding.

## Section 8: APPEALS

- Any person aggrieved by any decision or order of the Administrator in any matter related to the interpretation or enforcement of any provision of this ordinance may appeal to the Board of Appeals. Every such appeal shall be made and treated in accordance with Illinois law (*Illinois Revised Statutes, Chapter 24, Sections 11-13-14*) and the provisions of this section.
- A. **Filing, Record Transmittal** – Every appeal shall be made within forty-five (45) days of the matter complained of by filing with the Administrator and the Board of Appeals a written notice specifying the grounds for appeal. (Every appeal shall also be filed with the Soil and Water District as per State Law (*Illinois Revised Statutes, Chapter 5, Section 127.2a*)). Not more than five (5) working days after the notice of appeal has been filed, the Administrator shall transmit to the Board of Appeals all records pertinent to the case. A filing fee is required.
- B. **Stay of Further Proceedings** – An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Board of Appeals or the Circuit Court grants a restraining order for due cause, and so notifies the Administrator.
- C. **Public Hearing, Notice** – The Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing:
1. by first class mail to the applicant and to all parties whose property abuts the property affected by the appeal; and
  2. by publication in a newspaper of general circulation within the City.
- D. **Advisory Report, Decision by Council** – Within a reasonable time after the public hearing, the Board of Appeals shall submit an advisory report to the Council. The Council shall make the final decision on the appeal at their next regularly scheduled meeting following submission of said report. The Council, by an ordinance passed by simple majority vote of all members then holding office, may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from to the extent and in the manner that they deem appropriate.

## Section 9: VARIANCES

A variance is a relaxation of the requirements of this ordinance that is applicable to a particular lot, structure, or use. A so-called "use variance" (which would allow a use that is neither permitted nor special in the district in question) is not a variance; it is an amendment, and may be granted only as provided for in Section 4.

- A. **Application** – Every application for a variance shall be filed with the Administrator on a prescribed form. (Every variance application shall also be filed with the Soil and Water Conservation District as per State law (*Illinois Revised Statutes, Chapter 5, Section 127.2a*)). The Administrator shall promptly transmit said application, together with any advice he might wish to offer, to the Board of Appeals. The application shall contain sufficient information to allow the Board to make an informed decision, and shall include, at a minimum, the following:
1. name and address of the applicant;
  2. brief description/explanation of the requested variance;
  3. location of the structure/use for which the variance is sought;
  4. relationship of said structure/use to existing structures/uses on adjacent lots;
  5. specific section(s) of this ordinance containing the regulations which, if strictly applied, would cause a serious problem, and
  6. any other pertinent information that the Administrator may require.
- A filing fee is required.
- B. **Public Hearing, Notice** – The Board of Appeals shall hold a public hearing on each variance request within a reasonable time after the variance application is submitted to them. At the hearing, any interested party may appear and testify either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and nature of the proposed variance shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing:

1. by first class mail to the applicant and to all parties whose property abuts the property for which the variance is requested;
  2. by publication in a newspaper of general circulation within the City.
- C. **Standards for Variance** – The Board of Appeals shall not recommend nor shall the Council grant any variance unless, based upon the evidence presented to them, they determine that:
1. the proposed variance is consistent with the general purposes of this ordinance; and
  2. strict application of the district requirements would result in great practical difficulties or hardship to the applicant, and prevent a reasonable return on the property; and
  3. the proposed variance is the minimum deviation from such requirements that will alleviate the difficulties/hardships, and allow a reasonable return on the property; and
  4. the peculiar circumstances engendering the variance request are not applicable to other property within the district, and therefore, that variance would be more appropriately a remedy than an amendment (rezoning), and
  5. the variance, if granted, will not alter the essential character of the area where the premises in question are located.
- D. **Advisory Report, Decision by Council** – Within a reasonable time after the public hearing, the Board of Appeals shall submit an advisory report to the Council. The Council, may grant a variance by simple majority vote of all members then holding office and shall act on the requested variance at their next regularly scheduled meeting following submission of the Board of Appeals' Advisory Report. In accordance with State law (*Illinois Revised Statutes, Chapter 24, Sections 11-13-14*), the Council shall specify the terms of relief granted (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Council's reasons for granting or denying any requested variance.

#### **Section 10: PROCEEDINGS TO PREVENT VIOLATION**

In case any building or structure, including fixtures, is constructed, ~~reconstructed~~, altered, repaired, converted, or maintained, or any building or structure, including fixtures, or land is used in violation of this ordinance, the administrator, Mayor and City Council, or any other owner or tenant of real property within five hundred (500) feet of any direction of the property on which the building or structure in question is located may, in addition to other remedies, initiate actions or proceedings to: 1) prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use, 2) prevent the occupancy of the building, structure, or land, 3) prevent any illegal act, conduct, business, or use in or about the premises, or 4) restrain, correct, or abate the violation. When any such action is initiated by the City of Marion, the City will be represented by the City's attorney. When any such action is initiated by an owner or tenant, notice of such action shall be served upon the City of Marion at the same time the suit is begun by serving a copy of the complaint upon the Mayor. The court of proper jurisdiction may issue a restraining order, a preliminary injunction, and/or a permanent injunction upon such terms and under such conditions as will do justice and enforce the purpose of this ordinance. An owner or tenant need not prove any specific, special, or unique damages to self or property from the alleged violation to maintain a suit. Pursuant to the Illinois Revised Statutes (*Section 11-13-15*) an owner or tenant plaintiff may seek and be allowed a reasonable sum of money for legal fees when the defendant has engaged in prohibited activities.

#### **Section 11: PENALTIES FOR VIOLATION**

Violations of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in grants of variances, special uses, temporary uses, or planned unit developments) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100 or imprisoned for not more than thirty (30) days, or both, and shall pay all legal expenses and corresponding court costs. Each day that a violation exists constitutes a separate offense. The owner of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

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# ARTICLE XVII

## SCHEDULE OF FEES

1. Zone Clearance .....	\$10.00
2. Pre-Zoning .....	None
3. Special Use Permit .....	\$20.00
4. Temporary Use Permit .....	None
5. Planned Unit Development .....	\$20.00
6. Amendments .....	\$20.00
7. Appeals .....	\$20.00
8. Variances .....	\$20.00

ORDINANCE NO. 2263

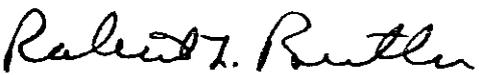
Be It Ordained by the City Council of Marion, Illinois, Article VI of Ordinance #1148 is hereby amended by adding the following to Section 1.

Section 1: Add

- E. Double wide manufactured homes. By approval of the City Council. Must have wheels removed and placed on permanent footing and concrete block foundation, tongue removed.

PASSED BY THE CITY COUNCIL THE 26<sup>th</sup> DAY OF May, 2009.

APPROVED BY THE MAYOR THE 26<sup>th</sup> DAY OF May, 2009

  
ROBERT L. BUTLER, MAYOR

ATTEST:

  
DIANE S. PRITCHETT, CITY CLERK

ARTICLE VIII

Section 1: Permitted Uses

- K. Halfway House for penal and correctional inmates provided that no sex offenders are housed within.

PASSED BY THE CITY COUNCIL THE 19<sup>th</sup> DAY OF February, 2007.

APPROVED BY THE MAYOR THE 19<sup>th</sup> DAY February, 2007.

Robert L. Butler  
ROBERT L. BUTLER, MAYOR

ATTEST:

Diane S. Pritchett  
DIANE S. PRITCHETT, CITY CLERK

ORDINANCE NO. 2118

Be it Ordained by the City Council of the City of Marion, Illinois, that Ordinance #1148 is hereby amended by adding the following:

Article II

Section 2: Add

Bed and Breakfast Establishment: An operator-occupied residence providing accommodations for a charge to the public with no more than five (5) guest rooms for rent. Meals may be provided to the guest only. Bed & Breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

Article V

Section 1:

Bed & Breakfast Establishments.

Article VI

Section 1:

Bed & Breakfast Establishments.

PASSED BY THE CITY COUNCIL THE 11<sup>th</sup> DAY OF December, 2006.

APPROVED BY THE MAYOR THE 11<sup>th</sup> DAY OF December, 2006.

Robert L. Butler  
ROBERT L. BUTLER, MAYOR

ATTEST:

Diane S. Pritchett  
DIANE S. PRITCHETT, CITY CLERK

ORDINANCE NO. 2094

Be it ordained by the City Council of the City of Marion, Illinois, Article X of Ordinance #1148 is hereby amended by adding the following to Section 1 and deleting the following from Section 4.

Section 1: Add

G. Full Service Recycling Facility with automobile shredder.

Section 4: Delete

All production, processing, cleaning, servicing, testing, repair, or storage Activities shall be conducted entirely within enclosed buildings.

PASSED BY THE CITY COUNCIL THE 17<sup>th</sup> DAY OF July, 2006.

APPROVED BY THE MAYOR THE 17<sup>th</sup> DAY OF July, 2006.

Robert L. Butler  
ROBERT L. BUTLER, MAYOR

ATTEST:

Diane S. Pritchett  
DIANE S. PRITCHETT, CITY CLERK

ORDINANCE NO. 2130

Be it Ordained by the City Council of the City of Marion, Illinois, Ordinance No. 1148 is hereby amended by the Deletion and Addition of the following:

**ARTICLE IV**

**Section 2:** Amend Line "J" to read

- J.** Nursing Homes, Assisted Living, Supportive Living, or Age Restricted Housing; Sanitariums, and Shelter Care Homes provided that no sex offenders, penal, or correctional inmates are housed within.

**ARTICLE VI**

**Section 2:** Amend Line "G" to read.

- G.** Nursing Homes, Assisted Living, Supportive Living, or Age Restricted Housing, Sanitariums, and Shelter Care Homes provided that no sex offenders, penal, or correctional inmates are housed within.

**ARTICLE VII**

**Section 2:** Amend Line "H" to read.

- H.** Nursing Homes, Assisted Living, Supportive Living, or Age Restricted Housing, Sanitariums, and Shelter Care Homes provided that no sex offenders, penal, or correctional inmate are housed within.

**ARTICLE VIII**

**Section 1:** Amend Line "J" to read.

**J. PERMITTED USES:**

Nursing Homes, Assisted Living, Supportive Living or Age Restricted Housing, Sanitariums, and Shelter Care Homes, provided that :

- (1). No sex offenders, penal, or correctional inmates are housed within, and
- (2). Duplex or multi-Plex housing, adjacent and contiguous to the primary development and serviced by the primary permitted use as part of the community living plan of development, shall be considered a permitted use.

ORDINANCE NO. 2066

Be it ordained by the City Council of the City of Marion, Illinois, Section I, Ordinance #1148 is hereby amended by substituting the following Paragraph 2 in Article VIII, Section J for the present Paragraph J.

Section 1: J: Commercial Group or Multifamily Housing Developments:

1. Permitted Uses.

Nursing homes, assisted living, supportive living, or age-restricted housing; sanitariums; and shelter care homes; provided that: (1) no penal or correctional inmates are housed therein, and (2) that the development size shall be no less than 5A and contain a minimum of 40 unites. Additionally, duplex or multi-plex housing, adjacent and contiguous to the primary development and serviced by the primary permitted use as part of a community living plan of development, shall be considered a permitted use.

2. Support Services and Uses.

All support service uses required or convenient for the operation of any of the permitted uses, including, but not limited to, barber shops, beauty shops, laundry facilities, restaurants or cafes, general stores or convenience stores, and the like shall be allowed when exclusively operated for the benefit of the residents, family, guests, and employees of the housing development.

3. Limitation on retail and services establishment space.

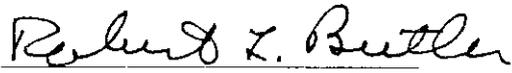
Other than Support Services and Uses as described in Paragraph J. (2), commercial uses for general public access which are located within the designated area for housing development shall be limited in floor space to no more than 25% of the total square footage of the housing unit within the development, except as may be granted a special use permit within the provisions of this Ordinance.

4. Area, Height, Setbacks, and Yard Regulations.

All requirements as shown in Article VI (General Residential ®-2)) District] Section 4 shall be applicable for the permitted uses under this Article VIII 1 (J).

Passed by the City Council the 27<sup>th</sup> day of February, 2006.

Approved by the Mayor the 27<sup>th</sup> day of February, 2006.

  
ROBERT L. BUTLER, MAYOR

ATTEST:

  
DIANE S. PRITCHETT, CITY CLERK

## **ORDINANCE NO. 1919**

Be It Ordained by The City Council of the City of Marion, Illinois:

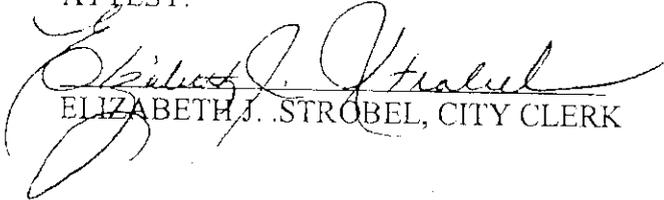
- Section 1. Article IV, Section 1-II of Ordinance #1148 is amended as follows:  
“Surface coal mining within 2000 feet of any area zoned Residential-RI is prohibited unless permitted by special use permit.
- Section 2. Surface coal mining is defined as any uncovering, extraction, excavation or disturbance of coal on any land whether or not previously mined.
- Section 3. Criteria for issuance of a special use permit for surface coal mining shall be as follows;
- a. Application for a special use permit shall be filed with the City Clerk.
  - b. The Applicant shall provide the name of the individual, corporation or other entity on behalf of whom the application is made as well as the address of the location of the applicant.
  - c. The application must be accompanied by a verified statement by a professional certified engineer assessing the impact of such mining may be delivered into the City’s storm water or drainage system until and unless there is filed with the City Clerk a certification by a licensed laboratory that such water is free of contaminants of any nature that may be hazardous to humans or plant life with which it may come into contact.
  - d. If the area in which mining or excavation of coal is inundated and water must be pumped or otherwise removed no such water operation upon any Residential zoned property within 2000 feet, such assessed impact to include potential physical damage to such property, economic or fiscal impact with respect to valuation of such property, and potential health and safety impacts upon such property .
  - e. There shall also be filed with the City Clerk a certificate by a licensed engineer that such water to be pumped or otherwise removed shall not be placed in the City’s drainage system in an amount too great for the capacity of this system.
  - f. Before a special use permit may be issued a hearing shall be held after 10 days notice published in a newspaper of general circulation.

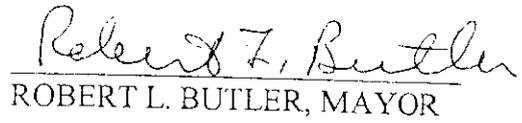
- g. At such hearing anyone interested in the issuance of such permit or opposed to its issue may appear and give testimony.
- h. After such hearing the Zoning Board before whom such hearing is held shall recommend to the City Council that such special use permit be issued or denied.

PASSED THE 16th DAY OF June, 2003

APPROVED BY THE MAYOR ON THE 16th DAY OF June, 2003.

ATTEST:

  
ELIZABETH J. STROBEL, CITY CLERK

  
ROBERT L. BUTLER, MAYOR

ORDINANCE # 1512

WHEREAS, ORDINANCE #1148 "AN ORDINANCE TO ESTABLISH ZONE DISTRICTS AND REGULATIONS GOVERNING THE DEVELOPMENT AND USE OF LAND WITHIN THE CITY OF MARION, ILLINOIS, IN ORDER TO PRESERVE, PROTECT, AND PROMOTE THE PUBLIC HEALTH, SAFETY, AND WELFARE IN ACCORDANCE WITH THE ILLINOIS REVISED STATUTES" was passed by order of the City Council of the City of Marion, Illinois on April 27, 1987, and;

WHEREAS, on May 16, 1994, the Zoning & Planning Board by unanimous vote, recommended Council amend the Zoning Ordinance, Article XIII: Section 6, PAGE 19 as follows:

E. "No fence shall exceed forty eight inches (48") in height when placed in the front third of any zoned lot, and no fence placed on the front one third (1/3rd) of a lot shall, in any event obstruct vision at any street, alley, or driveway intersection or constructed so as to hamper or prevent fire fighting," and

F. "All fence construction shall require a building permit to be submitted to the City for approval of the construction plans. The fee for such permit shall be as shown in Article XVII, page 32 amended to provide

Fence Permit Application.....\$15.00  
Zone Clearance Fee..... \$10.00

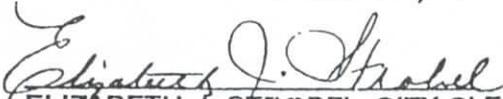
WHEREAS, ARTICLE XVII, page 32, contain the schedule of fees, no longer coincide with the expenses incurred by the City for administrative processing and necessary public notices of said Zoning requests, and

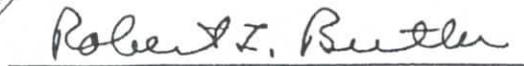
NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF MARION, that Zoning Ordinance #1148, Article XVII, page 32 shall be amended to include the May 16, 1994 recommendation of the Zoning & Planning Board and amend the schedule of fees as follows:

1. Zone Clearance	\$10.00
2. Pre-Zoning	None
3. Special Use Permit	\$20.00 plus the cost of publication- \$30.00
4. Temporary Use Permit	\$20.00
5. Planned Unit Development	\$20.00 plus the cost of publication- \$30.00
6. Amendments	\$20.00 plus the cost of publication- \$30.00
7. Appeals	\$20.00 plus the cost of publication- \$30.00
8. Variances	\$20.00 plus the cost of publication- \$30.00
9. Fence Permit	\$15.00 plus the cost of Zone Clearance-\$10.00

PASSED BY THE CITY COUNCIL OF THE CITY OF MARION THIS 13th DAY OF June, 1994.

PUBLISHED THIS 28th DAY OF June, 1994

  
ELIZABETH J. STROBEL, CITY CLERK

  
ROBERT L. BUTLER, MAYOR