

IN THE CITY OF HOLTS SUMMIT, MISSOURI

BILL NO. 2018-08

ORDINANCE NO. 2668

AN ORDINANCE TO AMEND CHAPTER 42- ZONING OF THE CITY CODE
OF THE CITY OF HOLTS SUMMIT, MISSOURI

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HOLTS
SUMMIT, MISSOURI, AS FOLLOWS:

Section 1 Amending Chapter 42 in its entirety. The Board of Aldermen of the City of
Holts Summit, Missouri hereby determines that it is in the best interest of the citizens of Holts
Summit to amend Chapter 42 by amending this code and establishing penalties for not following
these provisions:

CHAPTER 42 – ZONING

Subchapter A – Interpretation

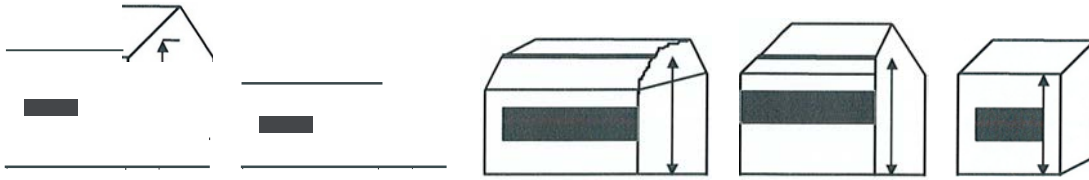
42.010. Purpose. For the purpose of promoting the health, safety, morals or the
general welfare of the City of Holts Summit, the governing body of Holts Summit deems it
necessary to adopt these regulations designed to lessen congestion in the streets; to secure safety
from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate
light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to
facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public
requirements.

42.020. Title. This Chapter shall be known and may be cited and referred to as the “Zoning
Ordinance of the City of Holts Summit, Missouri.”

42.030. Definitions. For this Chapter, the following words and terms as used herein are
defined to mean the following:

1. Words used in the present tense include the future; words in the singular number
include the plural; and words in the plural number include the singular; the word
“building” includes the word “structure”; the word “shall” or the word “must” is
always mandatory; the term “used for” includes the meaning “designed for” or
“intended for.”
2. Accessory building or use. A subordinate building having a use customarily incident
to and located on the lot occupied by the main building; or a use customarily incident
to the main use of the property.

3. Advertising devices. Banners or streamers affixed to poles, wires, or ropes, wind operated devices, flashing or animated lights, or other similar contrivances.
4. Agricultural activity. The growing of grains, hay, or other crops and the raising of such poultry and stock as are incidental to the acreage farmed, provided, however, that such land shall consist of at least ten acres in one parcel or in contiguous parcels under common ownership or operation. Agricultural activity shall include the storage of crops, grains, feed, or other products; limited to storage of those products raised on or to be consumed on the premises. The disposal of community or collected garbage, the raising of fur bearing animals, boarding stables, and commercial feed lots, shall not be considered agricultural activities.
5. Alley. A minor way affording secondary access to properties which otherwise abut on a street.
6. Amusement Center. A place in which games including, but not limited to, pinball machines, electronic video games, table games and billiard tables are made available for use by the public.
7. Apartment. A room or a suite of rooms within an apartment house arranged, intended, or designed for a place of residence of a single-family or group of individuals living together as a single housekeeping unit.
8. Apartment house. A building arranged, intended, or designed for more than two-family units.
9. Basement home. A building or improvement designed or utilized exclusively for residential occupancy, but which lies wholly or partially below the existing grade of the property on which said building or improvement is located and which was designed to or could serve as a basement for a dwelling. This definition shall not include sub-grade energy-efficient dwellings.
10. Bed and Breakfast. An establishment used for dwelling purposes in which rooms, with or without meals, are offered to transient guests for compensation.
11. Boarding house. A building, other than a hotel or apartment hotel, where for compensation and by pre-arrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.
12. Building. Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.
13. Building, height of. The vertical distance from the grade to, (a) the highest point of a flat roof; (b) the dock line of a mansard roof; or (c) the average height between eaves and ridge for gable, hip and gambrel roofs.



14. Club, private. A building or premises used for social, recreational, dining, or philanthropic purposes, the normal use of which is limited to specific members, patrons, or otherwise listed and enumerated persons.

15. Commercial feed lot. An area of land primarily devoted to buying, raising, feeding, or selling of livestock under dry lot or confined conditions, where the operation is not part of normal agricultural activity.

16. Court. An open, unoccupied space, other than yard, bounded on three or more sides by exterior walls of a building, or by exterior walls of a building and lot lines on which walls are allowable.

17. Commission. The Planning and Zoning Commission of the City of Holts Summit, Missouri.

18. Condominium. A structure or complex of buildings containing two or more individually owned units, apartments or houses separated by shared walls.

19. Customary Home Occupation. Customary home occupations including the professional office or studio of an architect, artist, dentist, doctor, engineer, lawyer, planner, scientist, teacher, beautician, barber, or occupations such as handicraft, dressmaking, millinery, laundry, preserving, and home cooking; provided that such occupations shall be conducted exclusively by resident occupant, that not more than one-quarter (1/4) of the area of one (1) floor of said residence shall be used for such purposes, and that no structural alterations or constructions involving features not customarily found in dwellings are required.

20. Day Care Facilities. Those facilities providing care of a child away from his own home for any part of the 24-hour day, for compensation or otherwise, and as regulated by the Missouri Division of Family Services, as regulated by Chapter 210 of the Missouri Revised State Statutes, including those facilities which do not require formal licensure under such regulations.

21. Drive-in establishments. Any financial institution, or product vending enterprise, not including restaurants, where the patron does not enter and/or remain within a building during the transaction of his business.

22. Dwelling. A building or portion thereof, designed exclusively for residential

occupancy, including one-family, two-family, and multiple dwellings, boarding and lodging houses, apartment houses and townhouses.

23. Face of building. The total area of the main wall or a building, including windows, doors, and openings, that abuts the front yard of a building or walls that are located on the front property line. On corner lots, the face of the building shall include main walls facing the front yard and side yard or main walls fronting on all front and side property lines.

24. Family. One or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities or a group of not more than five living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities on a non-profit cost-sharing basis.

24A. Flea Market. A market, usually in the open air, selling antiques, used household goods, and curios.

24B. Garage Sale. For purpose of this Chapter, a garage sale shall be defined as the sale or offering for sale to the public of personal property on any portion of a lot, whether within or outside of any building provided that no such garage sale shall include the sale of motor vehicles or industrial or commercial equipment. A garage sale shall last no longer than three consecutive days. A garage sale is allowed no more than one time on the same property in one three-month period.

25. Governing body. The Board of Aldermen of the City of Holts Summit, Missouri.

26. Greenhouse. A structure used for cultivating plants that require controlled temperature and humidity. The greenhouse must not exceed in floor area 25% of the ground floor area of the main building.

27. Greenhouse, commercial. A structure used for cultivating plants that require controlled temperature and humidity.

28. Hotel. A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests in contradistinction to a boardinghouse or lodging house as herein defined.

29. Kennel. The keeping of or harboring of a total of four or more adult dogs, or four or more adult cats, over the age of six months.

30. Lot. A parcel of land occupied or intended for occupancy for a use permitted in this Chapter, including one main building together with its accessory buildings, open spaces and parking spaces required by this Chapter, and having its principal frontage upon a street.

31. Lot, corner. A lot abutting upon two or more streets at their intersection.
32. Lot lines. The lines bounding a lot as defined herein.
33. Lot line, front. The boundary between a lot and the street on which it fronts.
34. Lot line, rear. The boundary line which is opposite and the furthest distance from the front street line.
35. Lot line, side. Any lot boundary line not a front or rear line thereof, a side line may be a party lot line, a line bordering on an alley or place or a side street line.
36. Lot depth. The mean horizontal distance from the front street line to the rear line.
37. Lot width. The horizontal distance between side lines, measured at the front building line.
38. Lot of record. A lot or parcel of land the plat or deed of which has been recorded.
39. Mobile and/or manufactured home court. A tract of land where five or more mobile and/or manufactured home spaces are offered for rent.
40. Mobile home. A transportable, factory built home more than eight (8) feet in width or more than thirty-six (36) feet in length, designed to be used as a year-round residential dwelling, and equipped with the necessary service connections and made to be readily movable as a unit on its own running gear and designed to be used as a dwelling unit without a permanent foundation. The phrase “without a permanent foundation” indicates that the support system is constructed with the intent that the dwelling unit placed thereon may be moved from time to time at the convenience of the owner.

For the purposes of this zoning code, there shall be included within the definition of “Mobile Home” those manufactured homes which are commonly referred to or known as “single-wide” manufactured homes.

Mobile homes shall only be allowed in RM-1 and RM-2 zoned districts.

41. Manufactured home. A factory built structure containing two or more units, that is manufactured or constructed under the authority of 42 United States Code Section 5401 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is

not a manufactured home.

42. Mini-storage facilities. A mini-storage facility is considered a self-service rental storage facility under 10,000 square feet with no dock facilities. Where the site is adjacent to residentially zoned land, a privacy fence is required as specified by the Planning and Zoning Inspector. Building heights shall be limited to sixteen (16) feet unless proper variance is obtained.

43. Mobile and/or manufactured home space. An area with utility connections which is occupied or designed to be occupied by an inhabited mobile and/or manufacture home.

44. Modular home. To qualify as a modular home a dwelling unit must meet all the following criteria:

- a. The dwelling unit arrives at its permanent erection site after fabrication on a wheeled dolly or flatbed.
- b. The dwelling unit arrives at the site in two or more component parts which are permanently joined together at the site.
- c. The dwelling unit is to be permanently attached to a permanent foundation.
- d. A modular home shall be deemed to be a standard single-family dwelling and shall be subject to all requirements of a single-family dwelling.

44. Motel. Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used, or intended wholly or in part for the accommodation of automobile transients.

45. Nonconforming use. Any building or land lawfully occupied by a use at the time of passage of this Chapter which does not conform with the use regulations of the district within which it is located.

46. Nursing home. A home for the aged or infirm in which three or more persons not of the immediate family are received, kept or provided with food and shelter, or care for compensations; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

47. Nursery. An area devoted to the raising and care of trees, shrubs or similar plant materials. A nursery building must not exceed in floor area 25% of the ground floor area of the main building.

48. Nursery, commercial. An area devoted to the raising and care of trees, shrubs or similar plant materials.

49. Parking space. A surfaced area not less than ten feet wide and twenty-two feet long, either within a structure or in the open. The parking space must be served with a driveway which provides access to a street or alley.

50. Premises. A lot together with all buildings and structures thereon.

51. Residential care facility. A building where, for compensation, meals, lodging and care are provided. At least one care provider shall be on duty always, but this individual need not be a registered nurse.

52. Restaurant. An establishment deriving over 50% of gross revenue from the sale of food and drink not including alcoholic beverages.

53. Restaurant, drive-in. An establishment deriving over fifty percent (50%) of gross revenue from the sale of food and drink not including alcoholic beverages; and which functions as a retail outlet where food or beverages are sold and delivered to patrons in parked motor vehicles.

54. Restaurant, drive-through. An establishment deriving over fifty percent (50%) of gross revenue from the sale of food and drink, not including alcoholic beverages, where food and/or beverages are sold in a form ready for consumption and where ordering and pickup of food may take place standing or from an automobile.

55. Restaurant with drive-through window. An establishment deriving over fifty percent (50%) of gross revenue from the sale of food and drink not including alcoholic beverages, where food and/or beverages are sold in a form ready for consumption and where ordering and pickup of food may take place from inside a building or through a drive-through window.

55A. Rummage sale. A sale of assorted secondhand objects contributed by donors to raise money for a charity. A rummage sale is a sale of unclaimed or excess goods, as at a warehouse. A rummage sale shall last no longer than three consecutive days. A rummage sale is allowed no more than one time on the same property in one three-month period.

56. Sign. An identification, description, illustration, or device that is affixed to or represented directly or indirectly upon a building, structure, or land and that directs attention to a product, place, activity, person, idea, institution, or business.

57. Sub-grad, energy-efficient dwelling. A building or improvement designed exclusively for residential occupancy, which lies wholly or partially below the existing grade of the property on which said building or improvement is located, which is complete and finished in every respect and which is incapable of serving as a basement of a dwelling with floors which would lie entirely above grade.

58. Street. A public right-of-way which provides a public means of access to

abutting property. The term street shall include avenue, drive, circle, court, road, parkway, boulevard, highway, way, traffic way, thoroughfare or any other similar term.

59. Street or highway frontage. The distance along any one side of any public street or highway, street or alley, measure along the right-of-way line or parallel to the normal right-of-way line where the right-of-way line is not fixed.

60. Street line. The dividing line between the street and the abutting property.

61. Structure. Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground; including, but not limited to signs, and excepting customary utility poles, retaining walls, and boundary fences.

62. Structural alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

63. Tavern. A place where liquors are to be sold for consumption on the premises, where said sales constitute most of the sale made on the premises. Restaurants shall not constitute taverns for purposes of this Chapter.

64. Truck gardening. The raising of food crops for use by the owner of the property on which the food crops are grown or for sale at retail by the owner of the property on which food crops are grown.

65. Variance. A variation from a specific requirement of this Chapter, as applied to a specific piece of property, as distinct from rezoning.

66. Warehouse facility. A building or structure over 10,000 square feet with dock facilities for loading and unloading products and materials; said building or structure to be used for commercial storage and wholesale distribution for all materials and products, except for fees, fertilizer, grain, soil conditions, asphalt, brick, cement, gravel, rock, sand, and similar construction materials, fuels, or any material defined by the Environmental Protection Agency or Department of Natural Resources as being a hazardous material. Any such warehouse shall be no less than 75 feet from any neighboring residential zone. All operations associated with said warehouse shall be conducted within a fully enclosed building, or if operations are conducted in an open yard, said yard must be screened to make said operations not visible at human eye level within 300 feet of any residential zone.

67. Yard. An open space at grade between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used.

Subchapter B - - Districts and Boundaries

42.100. Districts. For the purposes of this Chapter, the City of Holts Summit is hereby divided into ten zoning districts to be known as follows:

- District A – Agricultural District
- District RS – Single-family Residential District
- District RD – Two-family Residential District
- District RA – Multiple-family Residential District
- District RM-1 – Rental Mobile/Manufactured Home Residential District
- District RM-2 – Ownership Mobile/Manufactured Residential District
- District C-1 – Office Commercial District
- District C-2 – Merchant Commercial District
- District C-3 – General Commercial District
- District I Light Industrial District

1. The Single-family Residential District is the most restrictive district.
2. The Light Industrial District is the least restrictive district.

42.110. District boundaries.

1. The boundaries of the districts as enumerated above are shown upon the map designated as the Holts Summit Zoning District Map. The Holts Summit Zoning District Map and all notations, references, and other information shown thereon are a part of this Chapter and have the same force and effect as if the district map and all the notations, references and other information shown thereon were all fully set forth or described herein. The original of said district map is properly attested and is on file with the City Clerk of the City of Holts Summit.

2. Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

3. All territory which may hereafter be annexed in to the City of Holts Summit shall automatically be placed in the A – Agricultural District, unless the applicant(s) requesting such annexation shall include, as part of their Annexation Petition, a request for the property to be zoned alternatively. Should such an alternative zone request be made, the Board of Aldermen shall have the authority, upon the majority vote thereof, to approve such requested zoning as part of the annexation process.

4. Where uncertainty exists as to the boundaries of the districts as shown on the Holts Summit District Zoning Map, the following rules shall apply:

- i. Boundaries indicated as approximately following the center line of streets, highways, alleys, or other public rights-of-way shall be construed to be said boundary.

ii. Boundaries indicated as approximately following platted lot lines shall be construed to be said boundary.

iii. Boundaries that divide a lot or parcel of property, location of any such boundary shall be determined using the scale appearing on such map.

42.120. Prohibition. Except as hereinafter provided:

1. No building or land shall be used except for purposes permitted in the district in which the building or land is located.

2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the height, off-street parking, loading, and area regulations of the district in which the building is located.

3. The density and yard regulations of this Chapter are minimum regulations for every building existing at the effective date of this Chapter and for any building hereafter erected or structurally altered. No land required for yards or other open spaces about an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.

4. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case, shall there be more than one main building on a lot except as otherwise provided in Section 43.030 of Chapter 43.

5. All inhabited mobile homes located in the City of Holts Summit after the effective date of this Chapter shall be placed in one of the Mobile Home Residential Districts as described in Subchapter D, Sections 42.400 or in a nonconforming mobile home space as described in Subchapter L, Nonconforming Uses.

6. Any uses not addressed are subject to review by the Planning and Zoning Commission at regular monthly meeting.

Subchapter C - - District Use Regulations

42.200. Interpretation of the Zoning Code. Chapter 42, except for the agricultural and mobile and/or manufactured home districts, is expressly intended to be a “progressive”, or “cumulative” zoning scheme. “Permitted uses” in each zone are expressly intended to include those uses which are both permitted and conditionally permitted in the next least permissive zone; e.g., where District C-3 General Commercial District Zoning allows as permitted uses, “any use permitted in the C-2 District”, this is to be interpreted as permitting those uses allowed both as “permitted uses” and “conditional uses” in C-2 Merchant Commercial District as permitted uses in C-3 General Commercial District. This interpretation is in keeping with the legislative intent of the drafters of this code and is intended to be least restrictive upon the rights of the property owner to use his land as he wishes. Certain specific exceptions to this general rule of progressive

zoning are set forth herein.

42.210. A Agricultural District. The A District is intended to provide a location for the land situated on the fringe of the urban area, within the city limits, that is used for certain agricultural purposes.

1. Permitted uses:

a. Any use permitted in RS District, subject to the provisions of Article 4, Section A, Subsection 1, of Ordinance 45 of the City of Holts Summit, Missouri, as amended by this Chapter.

b. Agricultural activity. Farming, dairy farming, poultry raising, livestock, pasturing of livestock, game birds, and all uses commonly classed as agricultural, provided that any building, structure, or yard for the raising, feeding, pasturing, housing, or sale of any livestock or poultry shall be located at least 25 feet from a residential district; and further provided that there shall be no stock piles of garbage, rubbish, or offal, within 500 feet of a residential district; and further provided that no swine shall be kept, housed or raised.

c. Greenhouse or roadside stands for the sale or display of agricultural products raised on the premises. The greenhouse must not exceed in floor area, 25% of the ground floor area of the main building.

d. Fish hatcheries, apiaries, aviaries.

e. Fur farming, except skunks and civet cats.

f. Accessory uses, including repair shops, sheds, barns, silos, bunk houses, irrigation wells and pumps, incidental dwellings, buildings, and structures customarily required for any of the above uses.

2. Conditional use: No conditional uses.

42.220. RS Single-family Residential District. The RS District is intended and designed to provide for low density residential development. This district is designed to protect residential areas now developed with single-family detached dwellings and adjoining vacant areas likely to be developed for such purposes. The regulations are designed to stabilize such areas and to promote a suitable environment for family life. For these reasons, the following regulations shall apply:

1. Permitted uses:

a. One-family detached dwellings.

b. Customary accessory building including private garages, carports,

pergolas, swimming pools, fireplaces, and similar accessory uses.

c. Public, private, and parochial schools.

d. Public buildings erected by any public agency except those buildings used primarily for maintenance and storage purposes.

e. Electric substations, public utility pumping stations, water and sewage treatment facilities, water storage facilities, and devices for the metering of electrical, gas, or water services to dwellings.

f. Public parks, playgrounds, community centers, athletic fields.

g. Churches or other places of worship, including religious education buildings or other associated structures. Church signs shall be a permitted use, except that no flashing beacon signs shall be permitted.

h. Agricultural uses, not including commercial nurseries and commercial greenhouses, but including truck gardening provided that no offensive odors or dust are created, and no livestock is contained within 25 feet of a property line and provided further that gross retail sales more than \$5,000 per year not be permitted on the premises.

Neither commercial feed lots nor kennels shall be permitted in this district. There shall be no stock piles of garbage, rubbish, or offal within 500 feet of a residential zone.

i. Temporary buildings to house offices, equipment storage, or other functions incidental to construction and development activities provided that such buildings shall be removed within twelve (12) months from date of permit for their erection. A temporary building permit will be issued without charge by the zoning inspector upon application.

j. Custom home occupations, provided that there shall be no external evidence of such occupations.

k. Greenhouse.

l. Nursery.

m. Sub-grade, energy-efficient dwellings.

n. Daycare facilities.

o. Structures designed and intended for operation of community emergency services for the storage of response vehicles such as firefighting, rescue,

and ambulance services and equipment.

p. Manufactured homes subject to the restrictions of Subchapter D of Chapter 42.

2. Conditional use.

a. New cemetery on a site of not less than twenty (20) acres or enlargement of an existing cemetery.

42.230. RD Two-family Residential District. The RD District is designed to allow higher density residential development while retaining the residential character and stability necessary for a suitable environment for family life. For these reasons, the following regulations shall apply:

1. Permitted uses:

a. Any use permitted in the RS District.

b. Two-family dwellings.

2. Conditional use:

a. Parking located within 300 feet of a “C” or “I” District.

b. Privately operated lake, swimming pool or tennis court of a site of not less than five (5) acres.

c. Private club, fraternity, sorority or lodge, except when the chief activity of which is a service customarily carried on as a business.

d. The following uses apply on sites of not less than five (5) acres provided not more than fifty (50) percent of the site area shall be occupied by building, and further if buildings shall be set back from all required yard lines an additional foot for every foot of building height:

1) Hospital or sanitarium, except not a criminal or animal hospital.

2) Institution, not-for-profit institution, and institution supported by charity and having interest only in the welfare of humanity, but not a penal or mental institution.

3) Nursing, rest, or convalescent home.

4) Group home for handicapped, meeting the following criteria:

a. Not more than eight (8) special needs or physically handicapped persons, plus not more than two additional persons acting as house parents or guardians shall reside in the group home.

b. The exterior appearance of the group home and property shall reasonably conform to exterior appearances of other dwellings in the immediate vicinity.

c. A group home shall not be located closer than four hundred (400) feet to any other group home.

d. Private recreational facility where buildings do not occupy more than ten (10) percent of the site area.

e. Church parking lot when not on the same property as the church building under the following conditions:

1) The required yard setbacks of the district in which the lot is located shall be followed.

2) The parking area shall not extend a greater distance than five hundred (500) feet from the lot upon which the church is located.

3) If lighting is provided for such parking area, such lighting shall be hooded to contain direct rays within the parking area.

4) The parking lot drainage shall be approved by the Storm Water Engineer & the Planning and Zoning Commission.

5) The parking lot shall be screened from any lots zoned RS and RD by fencing, planting screens or earthen berms appropriately landscaped.

6) The parking area shall be improved in accordance with the paving and landscaping requirements of this Chapter.

7) The lot shall be used only for the parking of passenger vehicles.

f. Residential care facility.

42.240. RA Multiple-family Residential District. The RA Multiple-family Residential District is designed to allow a high density residential development designed specifically for apartments and dwellings in groups.

1. Permitted uses:

- a. Apartment houses;
- b. Boarding houses, but not hotels or motels;
- c. Nursing homes and homes for the aged;
- d. Clubs, lodges, and meeting places for other organizations;
- e. Recreational facilities for use solely by persons residing in the residences described in Subsections a, b, c, and d above;
- f. Condominiums; and
- g. Residential care facilities.
- h. Single-family residences shall not be allowed in RA zoning.

2. Conditional uses:

- a. Any conditional use of the RD District;
- b. Medical clinic;
- c. Professional and business offices in which no activity is carried on catering to retail trade with the public and no stock of goods is maintained for sale to customers. These shall include, but not be limited to, offices for governmental agencies, lawyers, doctors, insurance, real estate, architects and engineers;
- d. Bed and breakfast inn subject to the following criteria:
 - 1) That not more than five (5) guest rooms shall be allowed;
 - 2) That in addition to meeting all parking requirements of this Chapter, there shall be one-off-street parking space provided for each guest room;
 - 3) That there shall be no individual room cooking

facilities used for the bed and breakfast stay;

4) That the establishment shall be owner-occupied and managed;

5) That the establishment shall comply with all applicable City codes and may be inspected for such compliance by the Zoning Inspector or his designee, prior to an occupancy permit being issued; and

6) That meals shall be served only to residents and overnight guests.

42.250. C-1 Office Commercial District. The C-1 District is designed to provide commercial space for recreational and business purposes of a service nature.

1. Permitted uses:

a. Any use permitted in the RA District;

b. Medical and dental offices and clinics;

c. Parking structures and lots;

d. Professional offices and offices of financial, insurance, real estate, and philanthropic organizations;

e. Veterinarian, animal hospital; provided all animals are housed in an enclosed building;

f. Banks and savings and loan companies;

g. Barber and beauty shops;

h. Funeral homes and mortuaries;

i. Tattoo establishments;

j. Psychic establishments;

k. Bed and Breakfast; and

l. Any other use which is determined by the Commission to be of the same general character as above permitted uses, but not including any use which is permitted in the C-2 Merchant Commercial District.

m. Single-family and two-family residences shall not be allowed in C-1 zoning.

2. Conditional uses:

a. Restaurant, eat in;

b. Bakeries whose products are sold as retail on the premises; and

c. Drug stores.

42.260. C-2 Merchant Commercial District. The C-2 District is designed to provide a space for commercial purposes, such as those associated with sale or rental of goods, with a minimum of adverse effects on surrounding property.

1. Permitted uses:

a. Any use permitted in the C-1 Office Commercial District;

b. Appliance stores;

c. Automotive parts sales establishments;

d. Bakeries whose products are sold as retail on the premises;

e. Clothing or wearing apparel shops;

f. Drug stores;

g. Flea market;

h. Frozen food lockers;

i. Gift, florist, music stores, and pet stores;

j. Grocery stores, supermarkets;

k. Laundry and dry-cleaning establishments;

l. Miscellaneous trades and businesses such as plumbing and heating, upholstering, sheet metal shops, sign paid shops;

m. Paint stores;

n. Printing, publishing, and related trades;

o. Restaurant, eat in;

- p. Shoe repair shops;
- q. Store or shops for the conducting of a convenience type retail business;
- r. Accessory buildings incidental to retail stores and service establishments located on same property as the business or main building;
- s. Public swimming pools;
- t. Any other use which is determined by the Commission to be the same general character as above permitted uses but not including any use which is permitted in the C-3 General Commercial; and
- u. Single-family and two-family residences shall not be allowed in C-2 zoning.

2. Conditional uses:

- a. Drive-in restaurant, drive-through restaurant, restaurant with drive-through window;
- b. Commercial nurseries;
- c. Auto car wash;
- d. Amusement center; and
- e. Commercial greenhouse.

42.270. C-3 General Commercial District. The C-3 District is designed to provide commercial space for business and commercial users which are appropriately located on or near major traffic arteries.

1. Permitted uses:

- a. Any use permitted in the C-2 District;
- b. Amusement center;
- c. Auto body shops;
- d. Automotive car wash establishments;
- e. Automotive sales and service establishments;
- f. Boat sales and repair;

- g. Bus terminal facilities;
 - h. Drive-in restaurant, drive-through restaurant, restaurant with drive-through window;
 - i. Farm feed and supply stores;
 - j. Gasoline service stations, including those where repair work is a part of the business;
 - k. Motels and hotels;
 - l. New car sales lots;
 - m. Used car sales lots when the number of vehicles offered for sale does not exceed one vehicle for every 350 square feet of sales lots area. No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked, discarded or otherwise non-operating motor vehicle to remain on such property for longer time than 48 hours. For definitions pertaining to Subchapter (m), see Chapter 51;
 - n. Sales lots for new and used mobile and/or manufactured homes;
 - o. Commercial greenhouse or commercial nurseries;
 - p. Taverns;
 - q. Pawn shops;
 - r. Adult businesses and adult entertainment businesses;
 - s. Mini-storage facilities;
 - t. Roller skating rinks, ice skating rinks, recreational lakes, gymnasiums, health clubs, bowling alleys, and miniature golf courses;
 - u. Any other use which is determined by the Commission to be of the same general character as the above permitted uses but not including any use which is permitted in the I Light Industrial District; and
 - v. Single-family and two-family residences shall not be allowed in C-3 zoning.
3. Conditional uses:
- a. Drive-in theater;
 - b. Manufacturing and maintenance of electric and neon signs, billboards,

commercial advertising structures, light sheet metal products, including hearing ventilating ducts and equipment, cornices, caves and similar products;

c. Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, roofing, paper, toiletries, and food products, except the following: fish products, sauerkraut, vinegar, yeast, dairy products, and the rendering or refining of fats and oils;

d. Manufacture or assembly of medical and dental equipment, drafting and optical instruments, watches, clocks, toys, musical instruments, novelties, metal stamps, and electrical or electronic apparatus;

e. Manufacturing of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kiln fired only by electricity or gas;

f. Stone and monuments work;

g. Welding and machine shops;

h. Contractor's yards, building material yards, and equipment storage lots;

1. Driving ranges, amusement parks, indoor firing ranges, and race tracks.

42.280. I Light Industrial District. The I Light Industrial District is intended to provide sites for heavy commercial and light industrial activities requiring some heavy machinery, which, under control, would minimize the effect on nearby residential districts.

1. Permitted uses:

a. Any use permitted in the C-3 District;

b. Assembly of small component parts for farm implements, aircraft, automobiles, and trucks, such as generators and carburetors;

c. Storage units;

d. Bottling plants;

e. Bulk station for propane and butane gas;

f. Contractor's yards and related establishments, such as building material yards and equipment storage;

g. Drive-in theaters;

h. Farm implement sales and repair;

- i. Industrial research laboratories;
- j. Lumber yards, including millwork;
- k. Maintenance and repair of large, heavy-duty trucks;
- l. Commercial feed lots;
- m. Manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures, light sheet metal products, including heating ventilating ducts and equipment, cornices, eaves, and similar products;
- n. Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, perfumes, pharmaceuticals, roofing, paper, toiletries, and food products, except the following: fish products, sauerkraut, vinegar, yeast, dairy products, and the rendering or refining of fats and oils;
- o. Manufacture or assembly of medical and dental equipment, drafting and optical instruments, watches, clocks, toys, musical instruments, novelties, metal stamps, and electrical or electronic apparatus;
- p. Manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas;
- q. Ready-mix concrete plants;
- r. Sandblasting or cutting;
- s. Sawmill, the manufacture of wood products and novelties;
- t. Kennels;
- u. Stone and monument works;
- v. Welding and machine shops;
- w. Driving ranges, indoor firing ranges, amusement parks, and race tracks;
- x. Warehouse;
- y. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard;
- z. Veterinarian, animal hospital;

- aa. Other uses which in the opinion of the Commission are of similar character with respect to the emission of dangerous and offensive elements to the uses listed above; and
 - bb. Single-family and two-family residences are not allowed in I Light Zoning.
2. The above listed uses are permitted in the I Light Industrial District if the uses are not obnoxious or offensive due to emission of noise, odor, dust, gas, smoke, or vibration.
 3. More than one building may be constructed and maintained for any of the above uses.
 4. Conditional uses:
 - a. Any manufacturing or industrial use not included as a permissive use of the C-3 District.

Subchapter DD – Planned Development District, Purpose and Intent

42.300. Purpose. The purpose of the planned development district is to encourage the unified and harmonious improvement of land and buildings under a single plan of development. A planned development district is intended to provide the developer greater flexibility than existing zoning districts in the planning and development of projects while retaining city control over the development process. The planned district is not intended nor, does it apply to residential uses or current areas zoned residential.

1. Planned development district are intended to facilitate the following development objectives:
 - a. Encourage a mixture of land uses compatible with the surrounding neighborhoods;
 - b. Promote flexibility by allowing the placement of more than one (1) main or primary building on a single lot or parcel; and
 - c. Encourage large scale and well-planned developments.

42.310. Relationship of Planned Development Districts to zoning map.

1. Mapped district. The “PD” designation is not intended to be attached to existing use districts as an overlay. The “PD” designation, as detailed in this section, is a separate use district and may be attached to a parcel of land through the process of rezoning and zoning map amendment.
2. Plan approval required. It is the intent of this code that no development or

redevelopment of the property encompassed by the “PD” designation shall take place until an acceptable development plan has been reviewed and approved in conformance with the requirements of this section.

3. Types of planned developments. All areas of the City designated “PD” shall be assigned one of the following district classifications which shall be considered a separate use district and subject to the specific restrictions and limitations outlined in this section.

a. Planned Development-Commercial (PDC) – Planned developments involving commercial uses only;

b. Planned Development-Manufacturing (PDM) – Planned developments involving manufacturing uses only; and

c. Mixed Use Development (MUD) – Planned developments involving a mixture of non-residential uses.

42.320. Minimum development site size. The minimum site size required for such a planned development shall be as follows:

Planned Development Commercial	3.5 acres
Planned Development Manufacturing	5.0 acres
Mixed Use Development	7.5 acres

42.330. Height requirements. Unless otherwise restricted by application of regulations in Article 9, Air Navigation and Space Standards, the total height of any structure shall be limited by the conditions in the Code as stated in Section 42.620.

42.340. Procedures.

1. A Planned Development District may be initiated by an application by one or more of the owners of record or owners under contract of a lot or tract of land, or their authorized representatives.

2. Procedures for application, review, and approval of a Planned Development District shall be as stated in Chapter 42, Section 42.1400.

3. The preliminary development plan, shall contain not less than the information required on a final plat in accordance with the Subdivision Code, Chapter 43, and shall also include the following:

a. Existing and proposed contours at vertical intervals of not more than two (2) feet referred to seal level datum. Floodplain and wetland areas shall be delineated;

b. Type, number, and general location of proposed lots or units, or

maximum square footage of proposed buildings;

c. Approximate location of all isolated trees having a trunk diameter of six (6) inches or more, all tree masses and proposed landscaping;

d. A minimum of two (2) cross section profiles through the site showing preliminary building form, existing natural grade and proposed final grade;

e. Proposed ingress and egress to the site, including adjacent streets;

f. The location and number of all parking and loading spaces;

g. Preliminary plan for provision of sanitation and drainage facilities;

h. Proposed source of potable water; and

i. Other detailed information and data as deemed necessary by the Planning and Zoning Inspector or the Planning and Zoning Commission.

42.350. Recommendation for approval or denial of Planned Development District. Within sixty (60) days of receipt of the Planning and Zoning Inspector's report, the Planning and Zoning Commission shall act on the Planned Development District. The Planning and Zoning Commission action shall consist of one of the following:

1. Approval. The Planning and Zoning Commission may recommend approval of the Planned Development District as submitted or with amendments. The Planning and Zoning Inspector shall prepare the appropriate legislation for consideration by the Board of Aldermen including all conditions of the planned development. In recommending approval of development conditions, the Planning and Zoning Commission shall impose such conditions it determines necessary. Said conditions shall include but not be limited to the following:

a. Permitted uses, including number of units and/or maximum square footage of proposed building;

b. Height limitations;

c. Minimum yard requirements;

d. Off-street parking and loading requirements;

e. Road improvements adjacent to and within the site;

f. Performance standards;

g. Sign regulations;

h. Minimum requirements for site plan; and

i. Time limitations for commencement of construction. The Commission, at their discretion, may request additional information at this step, depending on the scale of the development.

2. Denial. The Planning and Zoning Commission may deny the Planned Development District for reasonable cause. The Planning and Zoning Inspector shall prepare a report to the Board of Aldermen indicating the Planning and Zoning Commission's decision. The developer may appeal the Planning and Zoning Commission's denial in accordance with the provisions of Subchapter P of this Chapter. If no appeal is filed as permitted within the period established, the application shall be deemed denied. In any case, the developer shall be notified in writing of the Planning and Zoning Commission's action.

42.360. Concept and site improvement plan. Upon passage by the Board of Aldermen of an ordinance enacting a Planned Development District and requiring submission of a concept plan and/or site plan, said plan(s) shall be submitted in accordance with the following provisions. No building permits or authorization for improvement or development for any use authorized under provisions of this section shall be issued prior to approval of such plans.

1. Concept plan.

a. A concept plan shall be submitted for the review and approval of the Planning and Zoning Inspector in accordance with the conditions of the ordinance enacting the Planned Development District. Said concept plan and any amended concept plan shall include, but not be limited to the following:

- 1) An out-boundary plat of the tract with a land surveyor's seal;
- 2) Existing and proposed contours at vertical intervals of not more than two (2) feet referenced to sea level datum. Floodplain and wetland areas shall be delineated;
- 3) Location of existing structures and improvements on the effective date of the Planned Development District;
- 4) Type, number, and general location of proposed lots of units, and/or maximum square footage of proposed buildings and other permanent structures;
- 5) Specific structure and parking setbacks along all public roadways and property lines; and
- 6) Approximate location of proposed internal roadways, major utility and roadway easements, necessary rights-of-way dedications, public

right-of-way cub cuts, and major storm water improvements.

The approved plan shall be retained on file in the office of the City Clerk.

2. Site improvement plans.

a. Upon approval of a concept plan where required, site improvement plans shall be submitted for review and approval to the Planning and Zoning Commission. In the case of developments consisting of multiple phases, lots and/or plats where a concept plan is required, site/improvements plans shall be submitted for each individual building, lot, phase or plat representing a portion of the concept plan. The plan(s) shall contain the minimum requirements established in the conditions governing the Planned Development District. No building permits or authorization for improvement or development for any use requested under the provisions of this Planned Development District shall be issued prior to approval of such plan(s). The approved plan(s) shall be retained on file in the office of the City Clerk.

b. Site/improvement plans and installation or guarantee of improvements are not required for phases, lots and/or plats designated for future development, except that the City may require such improvements as are necessary to serve the area proposed for present development. Site/improvement plans for these improvements shall accompany or be a part of the plan submittal.

c. If the planned development is proposed to be developed in phases, lots and/or plats, the Planning and Zoning Inspector may require submittal of a development schedule indicating:

- 1) The approximate date when construction of the project can be expected to begin and an estimated time of completion; and
- 2) The order in which the phases of the project will be built.

The concept plan, updated to reflect all structures, units and/or maximum square footage of buildings constructed or approved for construction, shall be provided with the subsequent submittal of site/improvement plans for each additional building, lot, phase or plat representing a portion of the concept plan. The City shall use this plan to track existing site development, ensuring that the current proposal complies with the conditions of this Chapter enacting the Planned Development District relating to maximum site densities. This plan is not intended to be approved or recorded and is for informational purposes only.

42.370. Recording. Prior to the issuance of any building permit or permit authorizing the use of the property in question, the property owner shall record a copy of the approved concept plan, and any subsequent amendments thereto with the Callaway County

Recorder of Deeds. In cases where a concept plan is not required, the property owner shall record a copy of the approved site plan. Said plan shall include a legal description of the tract and a script which indicates its correlation with the Planned Development District. Following the recording of the site plan, two original copies of the plan bearing the Callaway County Recorder's signature, seal, and notation as to plat book and page shall be returned to the City before any permits for any manner of construction shall be issued. Failure to record the plan within the time specified in the conditions of the ordinance enacting the Planned Development District shall cause approval of the plan to terminate.

42.380. Procedure to amend a Planned Development District or planned development concept or site plan. To amend an existing Planned Development District or to amend the concept or site plan for the Planned Development District, the procedure shall be as follows:

1. To amend the Planned Development District:

a. The property owner or authorized representative shall submit a written request to amend the Planned Development District to the Planning and Zoning Commission. The Planning and Zoning Commission shall evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.

b. The Planning and Zoning Commission shall review the proposed amendments and file a report with the Board of Aldermen in which the Commission shall recommend granting, denying or modifying the requested amendments. If the Planning and Zoning Commission determines that the requested amendments are not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Commission may require a new public hearing on the matter in accordance with the proceedings specified for amending the Zoning Code.

2. To amend the planned development district concept or site plan:

a. The property owner or authorized representative shall submit an amended concept and/or site plan to the office of the Planning and Zoning Commission for review. The Planning and Zoning Inspector shall evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.

b. If the Planning and Zoning Commission determines that the proposed amendment to the concept and/or site plan is not in conflict with the original proposal as advertised and the plan meets all the conditions of the Planned Development District, the Planning and Zoning Commission shall recommend approval or denial of the changes to the Board of Aldermen, who shall make the final determination.

c. If the Planning and Zoning Commission determines that the proposed amendment to the concept and/or site plan is not consistent in purpose and content with the original proposal as advertised and with the conditions of the Planned Development District, the Planning and Zoning Commission shall review the proposed plan amendment and make a final determination. The Planning and Zoning Commission may, if it deems necessary, require a new public hearing on the matter in accordance with procedures specified for amending the zoning ordinances. The Planning and Zoning Commission shall recommend approval or denial of the changes to the Board of Aldermen, who shall make the final determination.

42.390. Limitations.

1. Failure to commence construction. Unless otherwise stated in the development conditions, substantial work or construction shall commence within two (2) years of the effective date of the Planned Development District, unless such time is extended through appeal to and approval by the Planning and Zoning Commission. If no extension of time is received or granted within six (6) months after the two (2) year period following the effective date of the Planned Development District, the Planning and Zoning Commission shall review any changes in the zoning district map brought by the Commission and shall recommend to the Board of Aldermen that the map be revised in accordance with the procedures for changes and amendments. As used in this Section, substantial work or construction shall include final grading for roadways necessary for first approved plat or phase of construction and commencement of installation of sanitary and storm sewers as applicable.

2. Abandonment. In the event the concept or site/improvement plans are not submitted within the time limits specified in the ordinance enacting the Planned Development District or a use authorized by a Planned Development District is abandoned, vacated and/or not utilized for a period of two (2) years, the zoning amendment may be terminated. If no extension of time is received or granted within six (6) months after the expiration of the two (2) year period, the Planning and Zoning Commission shall review any changes in the zoning district map brought by the proposed development. If the commission finds said changes to be inappropriate, the commission shall recommend to the Board of Aldermen that the map be revised in accordance with the procedures for changes and amendments.

42.395. Extension of development schedule. The owner or owners may, at any time, apply to the Planning and Zoning Commission for an extension of the development schedule. Such extension shall be acted upon by the Planning and Zoning Commission, however, said extension shall not exceed twelve (12) months in duration.

Subchapter D - Mobile Home Regulations

42.400. The following provisions apply to mobile homes placed in the City not in a RM-1 or RM-2 zone.

1. All rules, regulations and provisions of Chapter 42 shall apply.

2. Individual mobile homes located on an individual lot shall be permitted to remain in place so long as occupied, but if they may not be replaced unless made to conform with the requirements of this Code. Any such existing mobile home shall be removed when unoccupied for a period more than 30 days, per Subchapter I, Non-conforming uses of Chapter 42.

3. New double-wide mobile homes or modular homes may be placed on any lot, zoned R-S or R-D only, within the City with the following restrictions and regulations: ~~New~~ single-wide mobile homes are prohibited.

a. The owner of the lot upon which the manufactured home or modular home is to be placed shall make application and obtain a building permit from the City of Holts Summit, Missouri.

b. The manufactured home or modular to be placed on the individual lot must have been manufactured within two (2) years prior to the date of placement of the same and must be a new (previously unowned) manufactured or modular home.

c. Be occupied only as a single-family dwelling.

d. Be placed in conformance with all zoning and set back requirements established for the zone in which located.

e. Have a minimum width of not less than twenty-four (24) feet.

f. Roof must be gable or hip roof of at least 3 X 12 or greater and covered with material that is residential in appearance, including, but not limited to, approved wood, asphalt composition or fiberglass shingles. Except for permitted deck areas, all roof structures shall provide an eave projection of no less than six (6) inches and no greater than thirty (30) inches.

g. Be placed on a parcel according to a pre-submitted and approved plot plan as described on the permit. In addition, an illustration of the finished appearance of the unit shall be provided.

h. Have exterior surface and window treatments that are architecturally compatible with those of the neighboring properties, excluding smooth, ribbed, or corrugated metal or plastic panels.

i. Have the exterior surface material attached in a horizontal pattern so that the home is architecturally compatible with those of the neighboring properties.

j. Construct and apply matching exterior surface materials so that the exterior surface extends in a continuous nature from the roof line to a point not

greater than eight (8) inches above the surface level of the yard on all sides of the unit. No under skirting will be permitted.

k. The unit must be permanently installed on a properly designed, continuous, permanent foundation system in accordance with the current adopted Building Code and the manner of placement shall be as stated on the building permit, and meet all manufacturer's specifications for support. The foundation must be continuous and permanent and shall be placed on appropriate footings to comply with normal construction standards for erection of foundations. The foundation shall extend at all points to the outer edges of the unit.

l. Pier pads are not permitted.

m. All footings shall have reinforced steel.

n. Anchors shall be imbedded in the footing or foundation to HUD, PSC or manufacture's specifications.

o. A vapor barrier shall be in place in accordance with the current adopted Building Code.

p. Have the tongue, all wheels, springs, axles, lights and towing apparatus and running gear removed.

q. Porch and steps must be of a permanent nature attached and affixed to the ground and the unit so that the same are architecturally compatible with those of the neighboring properties within 90 days of occupancy.

r. Shall be subject to inspection by the Zoning Inspector at any time during the construction, erection and placement process.

s. Pre-owned mobile homes may be moved onto an individual lot only in an existing mobile home park.

Subchapter E - RM-1 and RM-2 Regulations

42.500. RM-1 Rental Mobile and/or Manufactured Home Residential District.

1. General:

a. A Rental Mobile and/or Manufactured Home District shall be for permitting the establishment of attractive and well located mobile and/or manufactured home courts in the City of Holts Summit. The intent is to promote the development of sound and well planned mobile and/or manufactured home courts that will not cause a depreciation of adjacent property values, create congestion, overcrowding of the land, or in any other manner be contrary to the basic intent and purpose of this Chapter.

b. A Rental Mobile and/or Manufactured Home Residential District shall have a minimum area of twenty-five (25) acres and shall abut and have access to a public highway or street. A Rental Mobile and/or Manufactured Home Residential District may be in any area or district in the City of Holts Summit subject to rezoning and city approval of the Final Mobile and/or Manufactured Home Residential Plan. A Rental Mobile and/or Manufactured Home Court is a permitted use on any land originally zoned to District RM-1, Rental Mobile and/or Manufactured Home Residential District subject to the provisions of Subsection 3 below

2. Procedure for rezoning property to a Rental Mobile and/or Manufactured Home Residential District; minimum design standards:

a. The procedure for the rezoning of property to a Rental Mobile and/or Manufactured Home Residential District shall be the same procedure as is required for rezoning of property as stated in Subchapter L, Section 42.1400. Prior to the rezoning and approval of the Final Mobile and/or Manufactured Home Residential Plan the Commission and governing body must find that the Plan provides for meeting the following minimum design standards:

1) Lot area. Each lot within the mobile and/or manufactured home court shall have a minimum area of three thousand five hundred (3,500) square feet.

2) Width of lot. Each lot within the mobile and/or manufactured home court shall have a minimum width of forty (40) feet.

3) Spacing of mobile and/or manufactured homes. There shall be a minimum distance of twenty-five (25) feet between each mobile and/or manufactured home.

4) Front yard. No mobile and/or manufactured home shall be located closer than thirty (30) feet to the public highway or street right-of-way line on which the mobile and/or manufactured home park abuts.

5) Parking space. Two paved off-street parking spaces shall be located on each mobile and/or manufactured home lot.

6) Interior streets. All interior streets conform to current City building codes for width and construction, to include, but not limited to, curb, gutter, storm drains and sidewalks.

7) Sewer and water. All mobile and/or manufactured home units shall be connected to sewer and water systems which meet the current rules and regulations of the City and the State of Missouri agencies having

regulatory authority over water and sewer systems. The owner of the property shall, at the request of the Commission, furnish a letter from the regulatory agency which states that the proposed system is in conformance with applicable regulations. Each lot shall be individually metered for sewer and water.

8) Fire hydrants. In every mobile and/or manufactured home park the hydrants shall be in accordance with the current specifications of the National Board of Fire Underwriters. In no case shall any mobile and/or manufactured home be located further than six hundred (600) feet from a fire hydrant.

9) Recreation space. At least three hundred fifty (350) square feet of recreation space for each mobile or manufactured home space shall be reserved within each mobile and/or manufactured home court as common recreation space for the residents of the mobile and/or manufactured court.

a. No mobile and/or manufactured home shall be placed in a mobile home court until the Final Mobile and/or Manufactured Home Residential Plan has been approved by the governing body and until the streets and other physical improvements as shown on the Final Mobile and/or Manufactured Home Residential Plan have been installed.

10) FEMA rated storm shelters shall be placed throughout the mobile home court so that no individuals are further than a five (5) minute walk therefrom.

3. Procedure for development of a rental mobile and/or manufactured home court. A Final Mobile and/or Manufactured Home Residential Plan which meets or exceeds the design standards, Subsection 2, shall be submitted and become a part of the application for a building permit. Conformance with the Final Mobile and/or Manufactured Home Residential Plan shall be a condition of the permit.

4. Permitted accessory uses. All uses, and accessory uses permitted in the RS Single-family Residential District shall be permitted accessory uses in the RM-1 Mobile and/or Manufactured Home Residential District. In addition, the following accessory uses shall be permitted in the RM-1 District:

a. Central laundry and washroom facilities.

b. Mobile and/or Manufactured home court office and maintenance buildings.

5. Phase development. The owner of the mobile and/or manufactured home park may submit a Phase Development Plan for approval to the governing body. After securing

the approval of the governing body the owner of the mobile and/or manufactured home court may complete the construction of one section of the mobile and/or manufactured home court and place mobile and/or manufactured homes in this completed section provided that the construction is in accordance with the design standards and the approved Phase Development Plan.

6. Conditional Use:

- a. No conditional uses allowed
- b. No single-family, two-family, or multi-family residential shall be allowed in RM-1 Zoning.

42.510. RM-2 Ownership Mobile and/or Manufactured Home Residential District.

1. General. The purpose of the Ownership Mobile and/or Manufactured Home Residential District is to give residents the opportunity to purchase lots and locate mobile and/or manufactured homes in subdivisions situated and designed specifically for mobile and/or manufactured home living.

2. Area, density, use, and off-street parking requirements.

a. An Ownership Mobile and/or Manufactured Home Residential District shall have a minimum area of twenty-five (25) acres and shall abut and have access to a public highway or street.

b. Permitted uses shall include mobile and/or manufactured homes and all accessory uses permitted in the RS Single-family Residential District.

c. The density, yard, and height requirements shall conform to the requirements of the RD Two-family Residential District as specified in Section 42.230.

All interior streets shall conform to current City building codes for width and construction, including curb, gutter, storm drains and sidewalks

3. Procedure for rezoning property to the RM-2 Ownership Mobile and/or Manufactured Home Residential District.

a. The sale of lots and the issuance of permits shall be in accordance with the Subdivision Code of the City of Holts Summit. The procedure and requirements for rezoning shall be in accordance with Subchapter L, Section 42.1400. Summit.

4. Procedure for property originally zoned to the RM-2 Ownership Mobile and/or Manufactured Home Residential District. Lots may be sold provided that the lot or lots conveyed meet or exceed all the requirements specified for a lot located in the RD Two-family Residential District. A building permit may be issued provided that all the yard and off-street

parking requirements specified for a lot located in the RD Two-family Residential District are met.

5. Conditional Use:

a. No conditional uses allowed.

6. Mobile homes shall only be allowed to be placed in RM-1 and RM-2 districts.

Subchapter F -- Density, Yard and Height Regulations

42.600. Minimum lot area and width. The following minimum lot areas and lot widths must be provided in the districts indicated:

<u>District</u>	<u>Lot Width in Feet</u>	<u>Lot Area</u>
RS	80	10,000 sq. ft.
RD	60	6,000 sq. ft.
RA	60	6,000 sq. ft.
A	250	5 acres
C-1	None	None
C-2	None	None
C-3	None	None
I	None	None

<u>District</u>	<u>Lot Area per Family Single-family Dwelling</u>	<u>Two-family Dwelling</u>	<u>Multiple-family Dwelling</u>
RS	10,000 sq. ft.	Not Permitted	Not Permitted
RD	Not permitted	3,000 sq. ft.	Not Permitted
RA	Not permitted	3,000 sq. ft.	2,000 sq. ft.
A	5 Acres	Not Permitted	Not Permitted

42.610. Yard regulations.

1. Minimum yard requirements. The following minimum yards, measured in feet, shall be provided within all districts.

<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
40 Feet	10 Feet	25 Feet

The ten (10) foot side yard shall be provided on each side of any building. On corner lots in all districts a side yard of forty (40) feet shall be provided on the side street.

2. Exceptions to yard requirements. The following exceptions may be made to the yard requirements:

a. Where the length of a block exceeds five hundred (500) feet and where lots comprising forty (40) percent or more of the five hundred (500) feet of frontage are developed with buildings, the average of the existing front yards on the same side of the street shall be the established minimum front yard depth for the entire five hundred (500) feet of frontage; when the length of a block is less than five hundred (500) feet the average of the existing front yards shall be the established minimum front yard depth for the entire frontage of the block.

b. Chimneys, sills, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.

c. Fire escapes and balconies may project into a required yard a distance not to exceed three and one-half (3-1/2) feet.

d. Filling station pumps may occupy required yards if they are not less than fifteen (15) feet from all lot lines.

e. Porches and stoops which are not enclosed may project into a required yard a distance not to exceed five (5) feet.

f. A detached accessory building, all of which is in a rear yard, may be erected no closer than three (3) feet of a side or rear lot line.

g. In all C-1, C-2, and C-3 zoning districts, the minimum yard requirement for front yards shall be twenty-five (25) feet except that if any building has been constructed on any given block within any such commercial zoning district with a forty (40) foot setback for the minimum front yard, then the minimum front yard requirement for any new building on any such block shall be forty (40) feet.

42.620. Height regulations.

1. Height requirements. Maximum height limit established for buildings and structures in all districts is thirty-five (35) feet.
2. Exceptions to the height requirements.
 - a. Church spires, belfries, monuments, water towers, chimneys, stacks, and flag poles may be erected to such height as may be authorized by the Commission.
 - b. Buildings in all districts may be increased in height provided that each yard (sides, rear and front) is increased by one (1) foot for each foot of height which exceeds the height requirement for the district.
 - c. Signs which are lawful under Chapter 46 of this code shall not be subject to the maximum height limits provided for in this Chapter.
 - d. Emergency warning sirens.

Subchapter G -- Exterior Appearances

42.700. Exterior Appearances. The exterior appearance of all buildings shall be in reasonable conformance with the exterior appearance of other structures in the immediate vicinity.

1. All buildings shall be maintained to cause minimal visual impact to the immediate properties.
2. The exterior of every building must be properly maintained so as not to diminish the value of a neighboring property.

Subchapter H -- Off-Street Parking Requirements

42.800. Off-street parking requirements, general. Off-street parking spaces shall be provided as follows:

1. Two paved spaces shall be provided for each dwelling unit.
2. One paved space shall be provided for each 200 square feet of floor area devoted to office use or commercial businesses.
3. Two paved spaces shall be provided for every three employees on the premises on the maximum work shift for manufacturing plants, commercial bakeries, creameries,

bottling plants, warehouses, lumber yards, and research and testing laboratories. 42.810.
Off-street parking requirements for specific uses.

1. The indicated number of paved off-street parking spaces shall be provided for each of the following uses:

Use	Number of Required Spaces
Hotel, motel, dormitory, homes for convalescent or aged	One paved space for each sleeping room or suite
Churches, assembly halls, auditoriums, theaters, cafes, restaurants, mortuaries, taverns, or night clubs	One paved space for each five permanent seats
Wholesale sales, offices, frozen food lockers, furniture stores, automobile service garages, machinery and automobile sales, public buildings	One paved space for each 800 square feet of floor space
Bowling alleys	Three paved spaces for each alley

2. In all districts the off-street parking shall be provided on the same lot on which the principal structure is located or on a lot which is not more than one hundred (100) feet from the lot on which the main building is located.

Subchapter I -- Nonconforming Uses

42.900. Nonconforming uses are regulated.

1. Nothing contained in this Subchapter shall require any change in the plans, construction, or designed use of a building for which the building footings are in place at the time of the passage of the zoning ordinance.

2. Nothing in this Subchapter shall require any change in the plans, construction, or designated use of mobile and/or manufactured home spaces or pads in mobile and/or manufactured home courts for which the underground utilities and sewer connections are in place at the time of the passage of the zoning ordinance.

42.910. Continued and discontinued use.

1. General. The lawful use of land of a building existing at the time of the adoption of the zoning ordinance may be continued although such use does not conform with the provisions of the zoning ordinance and such use may be extended throughout such portions of buildings as are arranged or designed for such use, provided no structural alterations are made therein. The nonconforming use of open land shall not be extended to adjacent land. No new mobile and/or manufactured home spaces shall be added adjacent to or within a nonconforming

mobile and/or manufactured home court unless the adjacent lands are in a district where mobile and/or manufactured home courts are a permitted use. A nonconforming use may be changed to another nonconforming use of the same or of a more restricted zoning classification. If by amendment to this Chapter, any property is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in a district are made more restrictive, the provisions of this Chapter relating to the nonconforming use of buildings, premises, or open land existing at the time of the passage of the zoning ordinance, shall apply to buildings, premises, or open land occupied or used at the time of the passage of such amendment

2. Discontinuance of nonconforming uses of a building. No building or portion thereof used in whole or in part for a nonconforming use, which remains idle or unused for a continuous period of ninety (90) days, whether the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the district in which it is located.

3. Discontinuance of nonconforming uses of open land. No open land used in whole or in part for a nonconforming use which remains idle or unused for a period of sixty (60) days shall again be used except in conformity with the regulations of the district in which it is located.

4. Discontinuance of nonconforming uses of mobile and/or manufactured home spaces and mobile and/or manufactured home courts.

a. Mobile and/or Manufactured home spaces not located in a mobile home court. No mobile and/or manufactured home space which is located outside of a mobile and/or manufactured home court and which has been vacant for a continuous period of thirty (30) days or more shall again be occupied by a mobile and/or manufactured home. The 30 day period commences when City staff become cognizant of the vacancy.

b. Nonconforming mobile home courts. A nonconforming mobile and/or manufactured home court shall be considered vacant and unused only when all inhabited mobile and/or manufactured homes have been removed from the mobile and/or manufactured home court. A nonconforming mobile and/or manufactured home court which remains vacant for a continuous period of thirty (30) days or more shall not again be occupied by a mobile and/or manufactured home.

42.920. Repairs and restoration. Repairs and improvements may be made to a nonconforming building or structure, provided that no alterations shall be made, except those required by law or ordinance, unless the building or structure is changed to a conforming or more restricted use. Existing mobile home parks are exempt from this section.

42.930. Destruction of a nonconforming use. No building which has been damaged by any cause whatsoever to the extent of more than seventy-five (75) percent of the fair market value of the building immediately prior to damage, shall be restored except in conformity with the regulations of this Chapter, and all rights as a nonconforming use are terminated. If a building is damaged by less than seventy-five (75) percent of the fair market value, it may be repaired or

reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within twelve (12) months of the date of such damage.

42.940 – All mobile and/or manufactured home courts, mobile home parks, or tracts of land containing five or more mobile and/or manufactured homes spaces that are owned or offered for rent, which are currently in use and existing shall continue as lawful non-conforming, grandfathered, uses within their current zoning district. Any such currently existing land uses described herein shall not be in violation of this Chapter and shall not be subject to any penalties or charges for violations thereof, including the penalties found in Subsection Q. Additionally, any such currently existing land uses described herein shall not be subject to the restrictions in Sections 42.030.39, 42.280, 42.400, 42.500, 42.510, 42.800, 42.900.2, or 42.910.2. Non-conforming uses in effect at the time of passage of revised Chapter 42 shall be allowed to continue the non-conforming uses, **as specifically outlined in Section 42.910.4.a, as applicable to mobile and/or manufactured home spaces not located in a mobile home court, and 42.910.4.b, as applicable to mobile home courts as a whole.** unless abated for a period of 30 consecutive days. The abatement period will commence when City staff become aware of the vacancy. Any use other than the placement of mobile homes or similar structures within an area zoned as a Mobile Home Park shall lose their status as a non-conforming use within 30 days of such use ceasing and becoming known to City officials.

Subchapter J - Telecommunications Towers

42.1000. Purpose. It is the purpose of this section to regulate the placement, construction and modification of telecommunications towers, support structures, and antennas in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfere with the development of the competitive wireless telecommunications marketplace. This section is intended to:

1. Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of Holts Summit;
2. Minimize adverse visual impacts of communications antennas and support structures through the design, siting, landscape screening and innovative camouflaging techniques;
3. Maximize the use of existing and new support structures so as to minimize the need to construct new or additional facilities;
4. Maximize the co-location of facilities on any new support structures;
5. Ensure that any new telecommunications tower or support structure is in an area compatible with the neighborhood or surrounding community to the extent possible; and
6. Ensure that regulation of telecommunications towers and structures does not have the effect of prohibiting the provision of personal wireless services, and does not

unreasonably discriminate among functionally equivalent providers of such service.

42.1010. Applicability.

1. All towers, antenna support structures and telecommunications facilities, any portion of which are located within the City of Holts Summit, are subject to this section. All towers within the City of Holts Summit, Missouri at the time of passage of this section shall be registered with the Planning & Zoning Inspector within sixty (60) days from the effective date hereof together with the height, width and location thereof and a registration fee of fifteen dollars (\$15.00). Failure to register an existing tower shall raise a presumption that said tower, was not a legal nonconforming use on the date of passage of this section.

2. Notwithstanding any provisions contained in this section, any current legal use being made of an existing tower or antenna support structure on the effective date of this subsection shall be allowed to continue as a non-conforming structure. Any tower site that has received city approval in the form of either a conditional use permit or building permit, but has not yet been constructed or located within twelve (12) months of the date of the permit shall be considered a non-permitted structure.

42.1020. Legislative Findings.

1. On February 8, 1996, Congress enacted the federal Telecommunications Act of 1996 P.L. No. 104-104. The purpose of the Act included deregulation of the telecommunications industry and providing a more competitive environment for wired and wireless telecommunication services in the United States.

2. The Telecommunications Act of 1996 preserves the authority of the city to regulate the placement, construction, and modification of towers and antenna support structures and to protect the health, safety and welfare of the public.

3. The city has been granted the authority to enact legislation to regulate the construction, placement, and operation of Telecommunications towers and antennas pursuant to its zoning powers established in the Revised Statutes of Missouri and additionally pursuant to its general and specific police powers established by statute authorizing the regulations herein to protect the public health.

4. The Federal Communications Commission (FCC) has exclusive jurisdiction over (1) the regulation of the environmental effects of radio frequency emissions from telecommunications facilities, and (2) the regulation of radio signal interference among users of the radio frequency spectrum.

5. Consistent with the Telecommunications Act of 1996, the regulations of this section will not have the effect of prohibiting the provision of personal wireless services, and do not unreasonably discriminate among functionally equivalent providers of such service. The regulations also impose reasonable restrictions to protect the public safety and welfare and ensure opportunities for placement of antennas with prompt approval by the city. This subsection does

not attempt to regulate in areas within the exclusive jurisdiction of the FCC.

6. The uncontrolled proliferation of towers in the City of Holts Summit is threatened without the adoption of new regulations, and would diminish property values, the aesthetic quality of the city, and would otherwise threaten the health, safety and welfare of the public.

42.1030. Definitions. As used in this section, the following terms shall have the meanings and usages indicated:

1. Act. The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 and as may, from time to time, be amended.

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

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

4. Antenna support structure. Any building or other structure other than a tower which can be used for location of telecommunications facilities.

5. Applicant. Any person that applies for a tower permit.

6. Application. The process by which an applicant submits a request and indicates a desire to be granted a permit to construct, own or operate a tower within the city. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the city concerning such a request.

7. Cabinet or Control Structure. A structure for the protection and security of communications equipment associated with one or more antenna where direct access to equipment is provided from the exterior and that has a horizontal dimension that does not exceed four (4) feet by six (6) feet, and vertical height that does not exceed six (6) feet.

8. City. The City of Holts Summit, Missouri.

9. Code. The Code of the City of Holts Summit, Missouri.

10. Communications. The transmission, between or among points as specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received, by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by

any form of writing, signs, signals, pictures, sounds, or any other symbols.

11. Council. The Holts Summit Board of Aldermen.
12. Engineer. Any engineer licensed by the State of Missouri.
13. FAA. The Federal Aviation Administration.
14. FCC. The Federal Communications Commission and any legally appointed, designated or elected agent or successor.
15. Height. The vertical distance measured from the average grade of the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.
16. Inspector. The Planning & Zoning Inspector.
17. Modification. Any change, including the addition or replacement of antennas to a structure requiring a building permit or other governmental approval; except that the following shall not be deemed a modification requiring a building permit provided the conditions of the original permit and the requirements of this article are not violated; any structural alterations or replacement of antennas to meet safety requirements, any structural alteration or replacement of antennas that does not involve enlargement of the structure height and any alteration for normal maintenance.
18. Monopole. A self-supporting tubular shaped antenna support structure that consists of a single vertical pole fixed into the ground and/or attached to a foundation.
19. Permittee. Any person who has lawfully obtained a tower permit.
20. Shelter. A building for the protection and security of communications equipment associated with one or more antennas and where access to equipment is gained from the interior of the building.
21. Stealth. Includes any free-standing, man-made structure designed for the support of antennas, the presence of which is camouflaged or concealed as an appropriately-placed architectural or natural feature which are designed to blend into the surrounding environment. Such structures may include but are not limited to clock towers, campaniles, observation towers, water towers, light standards, flag poles and artificial trees.
22. Telecommunications. The transmission, between or among points as specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received, by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

23. Telecommunications facilities. Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of telecommunications as authorized by the Federal Communications Commission which a person seeks to locate or has installed upon a tower or antenna. However, the term “telecommunications facilities” shall not include:

a. Any satellite earth station antennas two (2) meters in diameter or less which is in an area zoned and used for industrial purposes;

b. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category;

c. Any satellite earth station more than two (2) meters in diameter which is utilized for the reception of broadcast television, video or radio signals and which is an ancillary use to a structure on the premises of the holder of the broadcast license.

24. Tower. A self-supporting lattice, guyed or monopole structure constructed from grade which supports telecommunications facilities. The term “tower” shall not include amateur radio operators’ equipment, as licensed by the FCC. The term “tower” does not include utility poles which are utilized for the support of electrical, telephone, cable television, or other similar cables and wires, are located on public rights-of ways or easements for that purpose and are a part of a system of such poles throughout the City of Holts Summit, Missouri.

42.1040. General requirements.

1. The requirements set forth in this section shall be applicable to all towers, antennas and other installed, built or modified after the effective date of this subchapter to the full extent permitted by law.

a. Building Codes, Safety Standards, and Zoning Compliance. To ensure the structural integrity of antenna towers, the owner shall see that it is constructed and maintained in compliance with all standards contained in applicable state and local building codes and the applicable standards published by the Electronics Industries Association, as amended from time to time. In addition to any other approvals required by this section, no antenna, or tower shall be erected prior to the issuance of a building permit.

b. Regulatory Compliance. All antennas and towers shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennas and towers. Should such standards or regulations be amended, then the owner shall bring such devices and structure into compliance with the revised standards or regulations within the period mandated by the controlling agency. No approval for any placement, construction or modification of any antenna or structure permitted by this section shall be granted for any applicant having an uncured violation of this

section or any other governmental regulatory requirement related to such antenna or structures within the city.

c. Excess capacity and planned future use. Any applicant for building permit to install, build or modify any tower, shall furnish the Planning and Zoning Inspector a statement of the excess capacity of the tower and plans, for anticipated growth. In addition, the applicant must design the tower and indicate on the application that the tower will accommodate at least one additional antenna similar to the principal antenna.

d. Co-location.

1). Co-location of Facilities. New Towers constructed within the city with height more than thirty-five (35) feet should can accommodate at least one (1) additional carriers or telecommunications facility for one other provider of communications services (hereinafter referred to as “additional capacity”). Such additional capacity, if any, shall be designated on the application and site plans presented to the city prior to construction of the tower.

2). Co-location or Installation.

(a). Any permittee whose tower is in excess of thirty-five (35) feet which is constructed after the effective date of this section and which has been built in accordance with setbacks and special conditions granted to towers with co-location capabilities under his article, and which contains additional capacity for installation or co-location of telecommunications facilities as demonstrated at the time the application for construction was granted, shall agree to allow other persons to install or co-locate telecommunications facilities on such a tower subject to reasonable terms and conditions negotiated between the parties including the suitability of the proposed tenant, the credit record and technical abilities of the proposed tenant. For co-location of antennas, a legal non-conforming tower may be used. However, in no event shall a permittee be required to allow co-location of facilities if to do so would result in technical interference with the delivery of permittee’s service. Failure to permit co-location or joint use on a tower which has been built in accordance with setbacks and special conditions permitted for towers designed for co-location may result in any enforcement action as permitted herein.

(b). Applicant must show evidence that he has investigated the possibilities for locating the proposed facilities on an existing tower. Such evidence shall consist of:

(1) Copies of letters sent to owners of all existing towers within a one-mile radius of the proposed site, requesting the following information:

i) tower height;

ii) existing and planned tower users;

iii) whether the existing tower could accommodate the proposed antenna without causing instability or radio frequency interference; and

iv) if the proposed antenna cannot be accommodated on the existing tower, an assessment of whether the existing tower could be structurally strengthened or whether the antenna's transmitters and related equipment could be protected from electromagnetic interference, and a general description of the means and projected cost of shared use of the existing tower.

(2) A copy of all responses within 30 days from the mailing date of the letter required by subsection 2b.

(3) A summary explanation of why the applicant believes the proposed facility cannot be located on an existing tower.

(4) A summary explanation of why the applicant believes that the use of an alternative tower structure is not possible.

(5) Evidence that the communications tower is structurally designed to support at least one additional user, and the special use application includes a statement that the owner of the tower is willing to permit other user(s) to attach communication facilities, on a commercially reasonable basis, which do not interfere with the primary purpose of the tower. The tower owner may require that such other users agree to negotiate regarding reasonable compensation to the owner from any liability which may result from such attachment. The site plan shall indicate a location for at least one equipment building in addition to that proposed for use by the applicant. Priority for co- location on the proposed tower shall be given to antennas that will serve a public safety need for the community.

3). Failure to comply with the provisions of this section constitutes a material violation of this ordinance.

4). Special Exception from Height Exceptions and Buffer yards. A permittee of an existing tower may modify the height of its tower to accommodate co-location of additional telecommunications facilities if the total height of the tower and telecommunications facilities attached thereto do not exceed fifty-five (55) feet. Unless provided for under conditional use permit, the maximum height shall not exceed the height limits as stated in this code.

5). Same Tower Type. A tower which is modified to accommodate the co-location of additional telecommunications facilities shall be of the same tower type as the existing tower. However, a different type of tower may be permitted by the approval pursuant to this code.

6). Movement of Tower.

(a). A tower which is being replaced to accommodate the co-location of additional telecommunications facilities may be moved on the same premises as it was constructed on, within fifty (50) feet of its existing location if required setbacks and buffer yards are maintained.

(b). A tower that is relocated pursuant to this section hereof shall continue to be measured from the original tower site for calculating the separation distances between towers pursuant to section 42.970. The approved relocation of a tower under this section shall in no way be deemed to cause a violation.

(c). Prior to the relocation of a tower, notice shall be given to adjacent property owners within three hundred feet (300) of the proposed tower site.

42.1050. Application Procedures.

1. Applications shall be made on the appropriate forms to the Planning and Zoning Inspector and accompanied by payment of the established fee.

a. A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating all existing and proposed improvements including buildings, drives, walkway, parking areas and other structures, public rights-of-way, the zoning

categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the existing or proposed tower.

b. The application shall be reviewed by the Planning and Zoning Commission to determine compliance with the above standards and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.

c. The Planning and Zoning Inspector shall issue a decision on the permit within forty-five (45) days of the date of application or the application shall be deemed denied. The Inspector may deny the application or approve the application as submitted or with such modifications as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens consistent with the purposes of this section. A decision to deny an application shall be made in writing, and state the specific reasons for the denial.

d. Appeals. Any applicant who is denied a tower application, or who is determined by the Planning and Zoning Inspector to be in violation of this section shall have the right to appeal the decision before the Board of Adjustment. Final decisions of the Board of Adjustment shall be subject to judicial review pursuant to Chapter 536, RSMo.

2. Additional Limitations. No tower shall be approved at a height exceeding one hundred fifty (150) feet AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system or that of a public safety communications system of a governmental entity sharing the tower. Such showing must also be supported by the opinion of a telecommunications consultant hired by the city at the expense of the applicant. The opinion of the consultant shall include a statement that no available alternatives exist to exceeding the height limit or the reason why such alternative are not viable.

42.1060. Design and Construction Standards.

1. Towers shall maintain a galvanized steel finish or, subject to the requirements of the FAA or any applicable state or federal agency, be painted a neutral color consistent with the natural or built environment of the site. Towers not requiring FAA painting or marking shall have either a galvanized steel finish or be painted an almond, light gray, silver or white finish.

2. Equipment shelters, or cabinets shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the zoning district in which the facility is located.

3. Antenna attached to a building or stealth antenna tower shall be of a color identical to or closely compatible with the surface to which they are mounted.

4. All permittees shall make every reasonable effort to design and construct

new towers and telecommunications facilities to blend into the character and environment of the area in which they are located, including the use of camouflage techniques, path array antennas and side mounting antennas unless such use shall create a hazard for the traveling public or it is not technically feasible to use such design and co-locate other facilities on the tower.

5. No commercial advertising shall be allowed on the tower or its related facilities.

6. The name and phone numbers of the owner of the tower must be placed in a visible location on the cabinet or equipment shelter using letters and numbers no less than three (3) inches in height. In the event the information changes, the owner must notify the City within 15 days and amend the information placed on the cabinet or equipment within fifteen (15) days.

7. All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the city's building code, and applicable state laws, and other standards outlined in the Code. A building permit, approved by the Planning and Zoning Inspector, must be obtained before construction may begin.

42.1070. Set-backs.

1. In all zones, towers shall be located at least 300 feet from any property line or separation of zoning.

2. Measurement of tower set-backs for compliance with this section shall be measured from the center of a tower to all property lines.

3. The applicant must submit a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result.

42.1080. Fencing and Screening.

1. Fences must be constructed around or upon parcels containing towers, antenna towers or telecommunications facilities.

2. The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building over eight feet in height. The tower's guy anchors may be screened or fenced separately to comply with the requirements of this subsection.

3. No outside storage shall be allowed on any telecommunication facility site.

42.1090. Buffering. Buffering and screening of the site shall be installed. In order to provide spatial separation and create visual block from adjacent properties and streets, a buffer shall be installed around the outside of all improvements on the site, including the tower and guy anchors, any ground buildings or equipment, and security fencing construction. The tower's guy

anchors may be screened or fenced separately to comply with the requirements of this subsection. All vegetation used in the landscaping shall be located outside any fenced areas.

42.1100. Security. All towers must be secured to protect against trespass or unauthorized use of the property, tower or telecommunications facilities.

42.1110. Access. All parcels upon which towers are located must provide access to at least two (2) paved vehicular parking spaces located within one hundred (100) feet of the tower. Traffic associated with the facility shall not adversely affect traffic on adjacent streets.

42.1120. Maintenance.

1. Permittees shall always employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

2. Permittees shall install and maintain towers, telecommunications facilities, wire, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all FCC, state and local regulations, and in such manner, that will not interfere with the use of other property.

3. All towers, telecommunications facilities and antenna towers shall always be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

42.1130. Drainage. All parcels upon which towers are located must contain adequate drainage facilities, which are approved by the director of public works.

42.1140. Separation between Towers:

1. Proposed towers must meet the following minimum separation requirements from towers existing at the time a permit is granted. However, an exception from separation distances between towers may be obtained from the planning and zoning commission if the applicant can demonstrate that such an exception is necessary for the engineering design of the system the tower is to be a part of, or that no other option is available to provide coverage for the service area. Such exception must also be supported by the opinion of a consultant hired by the City at the expense of the applicant.

		Lattice or Guyed 150 ft. in Height or Greater	or	Lattice or Guyed less than 150 ft. in Height or Greater	or	Monopole towers 75 feet in Height or Greater	or	Monopole towers Less than 75 ft. in Height
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	Lattice	3,000 ft.	2,500 ft.	1,500 ft.	750 ft.
PROPOSED TOWERS- TYPES	Guyed	3,000 ft.	2,500 ft.	1,500 ft.	750 ft.
	Monopole 75 ft. in Height or Greater	1,500 ft.	1,500 ft.	1,500 ft.	750 ft.
	Monopole less Than 75 ft. in Height	750 ft.	750 ft.	750 ft.	750 ft.

2. For this subsection, the separation distances shall be measured by drawing or following a straight line between the center of the existing tower and the center, pursuant to a site plan, of the proposed tower.

3. The height of the tower shall be measured as follows: the vertical distance between the highest point of the tower and the natural grade below this point.

42.1150. Illumination.

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA) and provisions of the city code. At time of construction of a tower dual mode lighting shall be requested from the FAA in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the tower from the tower. Any lighting shall not project onto surrounding residential property.

2. The telecommunications tower shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport.

3. The tower owner shall provide documentation, such as a signed affidavit, indicating that the power density levels do not exceed levels permitted by the FCC.

42.1160. Abandonment of Tower.

1. In the event the use of any tower has been discontinued for a period of one year, such tower shall be deemed abandoned.

2. The city shall provide the tower owner three (3) months' notice and an opportunity to be heard before the Planning and Zoning Commission before declaring the tower abandoned. In the event the tower owner provides evidence of intended use of the tower, an extension of no more than one (1) year may be granted.

3. The city shall provide the tower owner with the right to a public hearing before the Planning and Zoning Commission, which public hearing shall follow the three (3) month notice. All interested parties shall be allowed an opportunity to be heard at the public

hearing.

4. After a public hearing is held pursuant to this Section, the Planning and Zoning Commission may order the removal or demolition of the tower. The Planning and Zoning Commission's final decision shall be subject to judicial review pursuant to Chapter 536, RSMo.

42.1170. Commercial Operation of Unlawful Tower or Antenna. Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect or operate for any private commercial purpose any new antenna, tower or disguised support structure in violation of any provision of this ordinance, regardless of whether such antenna or structure is located on land owned by a governmental entity.

42.1180. Penalty. Any person violating this provision shall be subject to a fine of not more than five hundred dollars (\$500) or ninety (90) days in jail or both. Each day the violation continues shall constitute a separate offense.

42.1190. Severability. If any section, subsection, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Subchapter K – Administration

42.1300. Enforcement of the Chapter.

1. Zoning inspector. There is hereby created the position of Zoning Inspector. The governing body of the City of Holts Summit shall designate a municipal employee as the zoning inspector. The Chairman of the Planning and Zoning Commission is hereby authorized to act as zoning inspector in the absence of the designated zoning inspector.

2. Duties. It shall be the duty of the zoning inspector to enforce this Chapter. The zoning inspector shall receive applications required by this Chapter and issue permits. He shall examine premises for which permits have been issued, and shall make necessary inspections to see that the provisions of law are complied with. He shall enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided for. He shall, when the interests of the municipality so require, make investigations regarding matters referred to in this Chapter. For enforcing compliance with law, he shall issue such notices or orders as may be necessary.

3. Rules. For carrying into effect its provisions, the zoning inspector may adopt rules consistent with this Chapter subject to the prior approval of the governing body of the City of Holts Summit.

4. Records. The zoning inspector shall keep careful and comprehensive records of applications, of permits issued, of inspections made, of reports rendered, and of notices or orders issued.

5. Permits.

a. Building permits. It shall be unlawful to construct or alter, or to commence the construction or alteration of a building or structure, without first filing with Holts Summit City Hall an application in writing and obtaining a formal building permit. A building permit shall be requested for all new construction and for alterations which increase the size of an existing structure. A building permit is not needed for painting; roofing; the making of normal repairs; the adding of storm windows, guttering, or new siding; or interior remodeling, which does not impact structured components.

b. Land use permits. A land use permit must be obtained from ~~the zoning inspector~~ Holts Summit City Hall for any commercial or industrial use of land on which no building or structure is to be erected.

c. Application for a permit. An application for a permit shall be submitted in such form as the zoning inspector may prescribe. Such application shall describe briefly the proposed work and shall give such additional information as may be required by the zoning inspector for any intelligent understanding of the proposed work. Such application shall be accompanied by payment of such fees as the governing body may establish. There shall also be filed a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new construction and of all existing buildings. Where no building or structure is to be erected, the applicant shall state on the application for a permit, the nature of the proposed use of the land.

d. Exception for accessory building. A building permit shall not be required under this Section for an accessory building not exceeding eighty (80) square feet in size, which accessory building is not affixed to a permanent foundation; provided, however, that only one such accessory building may be constructed on any parcel of ground under common ownership without a building permit.

e. License Fees. A non-refundable fee will be charged in advance for each permit application, which fee shall reimburse the City for the City's expense in processing and issuing or denying such permit. The following fees shall be charged per permit:

(1) New Construction: A building permit for construction requiring building inspections ~~shall be no less than \$70 which~~ shall be charged ~~as follows:~~ In accordance with current fee schedule.

(a) Base rate: A base rate ~~of \$50~~ in accordance with current fee schedule, shall be charged on all permits that require

building inspections in addition to the building permit fees and minimums listed below.

(b) Minimum Fee: In accordance with current fee schedule

(2) Miscellaneous Construction Permits: Permits not requiring building inspections shall be in accordance with current fee schedule

(3) Square Foot Charges: Shall be charged in accordance with current fee schedule.

(4) Sign Permit:

(a) The charge for a sign permit shall be in accordance with current fee schedule

(b) If multiple signs, other than political signs, are placed in more than one location, a permit shall be purchased for each additional location.

(5) Driveway Permits: The following charges shall apply to the construction of a driveway:

(a) Driveway permit without a culvert in accordance with current fee schedule

(b) Driveway permit with the installation of a culvert in accordance with current fee schedule

(c) Culvert permit = in accordance with current fee schedule

6. Amendments to application. Nothing in this Section shall prohibit the filing of amendments to an application at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

7. Action on application. If, after examination of the application for permit, the zoning inspector finds no objection to the same and it appears that the proposed work will be following the laws and ordinances applicable thereto, he shall approve such application and issue a permit for the proposed work as soon as practicable. If his examination reveals otherwise, he will reject such application, noting his finding in a report to be attached to the application and delivering a copy to the applicant.

8. Conditions of the permit. All work performed under a permit issued by the zoning inspector shall conform to the approved application and plans, and approved amendments

thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to. It shall be unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; if this shall not apply when the lot is reduced due to a street opening or widening or other public improvement. It shall be unlawful to change the use of land for which a land use permit has been issued until a revised land use permit has been obtained. Construction of the building or structure must be commenced within six (6) months of issuance of the permit and construction must be completed within twelve (12) months of the date of issuance of the building permit.

9. Revocation. In addition to any other rights and remedies available to the City of Holts Summit at law or equity, the zoning inspector may revoke a permit or approval issued under the provisions of this Chapter in the event the work performed fails to conform with the permit or any conditions of the permit as described in Section 42.1000.8, and the zoning inspector shall revoke any permit or approval issued under the provisions of this Chapter where there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

10. Occupancy permits. Within ten (10) days of the completion of any construction or alteration of a building or structure for which a building permit has been issued, the person to whom the building permit was issued, or his representative shall notify the zoning inspector that said construction or alteration has been completed. Additionally, the person to whom the building permit was issued or his representative shall provide the zoning inspector with the applicable statement of completion from a duly qualified electrician, a duly qualified plumber, and a duly qualified building contractor (as specified in Chapters 45 and 47 of the Holts Summit City Code), that the construction as completed complies fully with all applicable requirements of the Holts Summit, Missouri, City Code with respect to electrical, plumbing and building work. The City Clerk shall maintain a list of duly qualified electricians and plumbers acceptable to the City who have provided the City with a copy of a license of another city of the State of Missouri, provided that such applicant has been licensed by a city having adopted a plumbers and electrical code and plumbing and electrical examination requirements. The zoning inspector shall review said inspection statements, and if all requirements of this Chapter have been complied with fully, the zoning inspector shall issue a Certificate of Occupancy to said person. No person shall occupy any building or structure for which a building permit has been issued without first obtaining a Certificate of Occupancy for said building or structure.

Subchapter L - Amendments to the Zoning Chapter

42.1400. Amendments to the zoning chapter.

1. Applications for amendment, revision, or change of the Holts Summit Zoning District Map may be made by any person, or his agent, who owns the land sought to be rezoned. If such application is made by the owner's agent, such agent shall enter upon the application the name and current mailing address of the owner. Such application shall be made upon forms prescribed by the Commission and duly filed with the Commission.

a. The application must be completed by the owner of the property or his agent and be returned to the Zoning Inspector or City Clerk, who will check it for completeness. The accuracy of the legal description of the property is the responsibility of the applicant and is not the responsibility of the city. The applicant must submit the completed application and ten (10) copies of the application to the Zoning Inspector or City Clerk. The Planning & Zoning Commission will schedule a public hearing on the date of the next regularly scheduled Planning & Zoning meeting, giving at least fifteen (15) days' notice of the time and place of such hearing in a newspaper of general circulation within the City of Holts Summit.

b. The application must be accompanied by a full legal description (surveyor's description or by metes and bounds) and a general location description of the property requested to be rezoned. The legal description must be accompanied by a recorded (with Callaway County Recorder's seal) deed which includes the property requested to be rezoned.

c. The application must be accompanied by ten (10) copies of a map of the land in question, showing the adjoining, opposite and abutting tracts, and ownership of each tract; also, the position of all present buildings and proposed developments.

d. The applicant must notify all property owners adjacent, opposite and abutting to or within an area determined by lines drawn parallel to and ~~three hundred (300)~~ one hundred eighty five (185) feet distant from the boundaries of the district proposed to be rezoned of his intention to apply for a zoning change, and that he has fully informed them of the type of zoning change requested and has explained the intended development proposed for the area. The applicant will notify the property owners within ~~300~~ one hundred eighty five (185) feet by means of a form letter provided by the City Clerk which will show the date of the Planning & Zoning public hearing and information pertaining to the procedures for rezoning. The applicant must provide the City Clerk with a copy of the letter and the certified mail receipts prior to the first public hearing.

2. Applications for amendment, revision, or change of any of the rules, regulations, or provisions of the text of this Chapter may be made by any interested person on forms prescribed by the Commission and duly filed with the Commission.

3. A filing fee in accordance with current fee schedule shall accompany said application, which filing fee shall constitute an advance deposit to cover actual publication and recording expenses associated with said application. The actual costs of publishing notice of the proceeding and of recording and transcribing the transcript of such proceeding shall be the responsibility of the applicant. If these actual costs exceed the amount of said filing fee deposited, then the applicant shall forthwith pay any such additional amounts to the City of Holts Summit, Missouri. If the filing fee deposit provided for herein exceeds actual publication and recording costs, then the City of Holts Summit shall refund to the applicant the amount of such deposit not

necessary to cover all such expenses. This fee shall be refunded in full if the application is withdrawn before the first hearing notice is placed for publication.

4. The application shall be mailed to the Commission with notification of the public hearing. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the Commission, be continued. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation within the City of Holts Summit.

5. Upon the final hearing of such application the Commission shall make a written report with a recommendation for final approval or denial of the application by the Board of Aldermen.

6. Before acting upon any application for amendment the Board of Aldermen shall set a time and place for a hearing thereon, and at least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Holts Summit.

7. Recommendations for revision, or amendment of this Chapter, including the zoning district map, may also be made by the Commission upon its own motion for final determination by the Board of Aldermen; likewise, the Board of Aldermen may revise, modify, or amend this Chapter, including the zoning district map upon its own motion; provided, however, such proposed changes shall first be submitted to the Commission for recommendations and report. In either case, final action thereon shall be taken only upon notice and hearing, as provided herein.

8. In case a protest against such revision or amendment is presented, duly signed and acknowledged by the owners of ten (10) percent or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change, or within an area determined by lines drawn parallel to and one hundred eighty five (185) feet distant from the boundaries of the district proposed to be changed, such revision or amendment shall not become effective except by the favorable vote of three fourths (3/4) of all of the members of the Board of Aldermen.

9. Notwithstanding any other provision of this chapter, no public hearing shall be required before final passage of any proposed amendment to this chapter unless such proposed amendment is designed to change or create a boundary of a zoning district or to change or create restrictions on erection, construction, reconstruction, alteration or use of buildings, structures or land.

Subchapter M -- Conditional Use Regulations
(Determined by the Board of Aldermen)

42.1500. Purpose. It is the purpose of this section to provide for conditional use permits which may be granted only for uses expressly listed in the conditional use subsections of the zoning districts established in this chapter.

42.1510. Application. Application for a conditional use permit shall be made to the

Board of Aldermen and shall be accompanied by the following:

1. Completed application forms.
2. A deposit to cover costs in the amount in accordance with current fee schedule. If these actual costs exceed the amount of said filing fee deposited, then the applicant shall forthwith pay any such additional amounts to the City of Holts Summit, Missouri. If the filing fee deposit provided for herein exceeds actual costs, then the City of Holts Summit shall refund to the applicant the amount of such deposit not necessary to cover all such expenses.
3. An accurate legal description of the subject property
4. Plans or other evidence, as appropriate, that support the granting of a conditional use.
5. The applicant must notify all property owners adjacent, opposite and abutting to or within an area determined by lines drawn parallel to and one hundred eighty-five feet distant from the boundaries of the property to contain the conditional use. The applicant will notify the property owners within 185 feet by means of a form letter provided by the City Clerk which will show the date of the public hearing and information pertaining to the procedure for a conditional use request. Such form letter is attached to Ordinance No. 1092, is approved, adopted and made a part herein by reference as fully as if set out herein verbatim. The applicant must provide the City Clerk with a copy of the letter and the certified mail receipts prior to the first public hearing.

42.1520. Procedure.

1. The applicant shall submit all necessary information and materials to the City Clerk. The City Clerk shall then refer the application to the Planning & Zoning Commission who shall review the request to determine its compliance with the provisions of this Chapter. A report on the proposal shall be made to the Board of Aldermen at the time the application is to be considered. The City Clerk shall handle all notification procedures.
2. The Board of Aldermen shall hold a public hearing on the application.
3. After giving due consideration to the following standards, the Board of Aldermen may grant a conditional use permit stipulating any conditions deemed necessary to carry out the provisions and intent of this chapter:
 - a. The proposed conditional use follows all regulations of the applicable zoning district.
 - b. The proposed conditional use will be in conformance with the character of the adjacent area, in which it is located. In making such a determination, consideration may be given to the location, type and height of buildings or structures' and the type and extent of landscaping and screening on the

site.

c. Off-street parking and loading areas are provided in accordance with the standards set forth in this Code.

d. Adequate utilities, drainage, and other such facilities are provided.

e. Adequate access is provided and is designed to prevent traffic hazards and minimize traffic congestion.

4. The Board of Aldermen shall find for all Conditional Uses, or establish provisions therefor, that the Conditional Use will:

a. Not impede nor detract from the normal development and improvement of surrounding property for uses permitted in the district.

b. Not cause undue congestion or other traffic problems on the public streets.

c. Be adequately served by utilities.

d. Meet all fire, health, building, storm water drainage, plumbing, electrical, off-street parking and sign regulations of the City.

e. Have access drives which are designed and constructed in accordance with the City standards.

5. The Board of Aldermen may impose conditions to ensure that the conditional use will not:

a. Be unduly injurious to the use and enjoyment of other property in the immediate vicinity.

b. Have a significant adverse effect on property values in the neighborhood.

c. Be detrimental to nor endanger the public health, safety or general welfare of the citizens of the City.

42.1530. Rehearing the Same Request.

1. Any interested party may, in writing and within ten (10) days of the Board of Aldermen's decision, request that the Board reconsider any decision on which adversely affects such part.

2. The Board of Aldermen shall rehear the request only if it determines:

- a. Certain pertinent evidence was not presented, or
- b. An error which warrants correction was made at the original hearing, or
- c. There is new, pertinent evidence, or
- d. There has been a material change in fact or circumstance.

3. The party, when requesting the rehearing, shall submit a written statement setting out any alleged error or omission; any new, pertinent fact; or the material change in fact or circumstance upon which the request for rehearing is based.

4. At its next meeting, the Board of Aldermen shall consider and vote on the request for rehearing. If approved, the request shall be reheard at the same, or at a subsequent Board meeting.

5. When making its determination to rehear the request, the Board of Aldermen will limit the testimony to those issues presented by the party requesting the rehearing.

6. All interested parties will be heard at the rehearing if the request for rehearing is granted.

7. Requests for rehearing shall not be subject to the application filing fee.

42.1540. Procedure to be followed on successive and similar applications:

1. No application shall be filed within ninety (90) days of the final disposition by the Board of Aldermen of a previous application for the same property, or portion thereof, for the same, or substantially the same purpose.

2. After the expiration of the above stated ninety (90) days period, a new application may be filed for the same property, or portion thereof, for the same, or substantially the same purpose.

- a. The applicant, when filing the new application, shall submit a written statement setting out new, pertinent evidence or material change in fact or circumstances which warrants and supports the filing of the new application.

- b. Within ninety (90) days, the Board of Aldermen shall consider and vote on whether to hear the new application.

- c. The Board of Aldermen shall hear the new application only if it determines there is new, pertinent evidence or there has been a material change in fact or circumstances. In making that determination, the Board of Aldermen will

limit the testimony to that of the applicant.

d. If the Board of Aldermen decides to hear the new application, the hearing may be held at the same, or at a subsequent, Board meeting at which time all interested parties will be heard.

e. New applications shall be subject to the application filing fee.

42.1550. Revocation. The Board of Aldermen, at any regular or special meeting, may revoke a variance or conditional use permit granted hereunder upon:

1. The failure of the owner (hereinafter called “the applicant”) of the property for which the variance or conditional use permit was granted to comply with any of the conditions the Board may have imposed when it granted the variance or permit; or

2. Discontinuance of the conditional use by the applicant for a continuous period of three (3) months. The Board of Aldermen shall notify the applicant by certified mail and the owners of record of all real property located within three hundred (300’) feet of the Applicant’s property by regular mail postmarked not less than ten (10) days prior to the Board of Aldermen meeting at which revocation is to be reconsidered; or

3. Significant expansion or alterations after the issuance of the conditional use permit which changes the character of the conditional use.

42.1560. Duty to Comply with Other Laws. Approval and issuance of such permit shall not be deemed to relieve the permittee of the duty to comply with the provisions of other laws and ordinances.

42.1570. Violation. The violation of any condition imposed by the conditional use permit shall constitute a violation of this Chapter.

42.1580. Tenure of Permit. The granting of a conditional use permit is to allow that use on the specific site. If the use is not substantially altered, it shall be allowed on the site regardless of ownership. A conditional use permit may not be transferred to any other site.

42.1590. Amendment. Amendment or addition to any conditional use permit is subject to the same procedures as those which apply to a new application. Minor adjustments to an approved conditional use permit may be authorized by the Board of Aldermen at their discretion.

Subchapter N - Board of Adjustment

42.1600. Board of Adjustment.

1. Appointment. A zoning Board of Adjustment, is hereby created. The Board of Adjustment shall consist of five (5) qualified voters of Holts Summit appointed by the Board of

Aldermen, for terms of five (5) years. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Members of the Board of Adjustment shall serve without compensation and each member shall serve until his successor is appointed and qualified. Members of the Board of Adjustment shall be removable for cause upon written charges and after public hearings.

2. Procedure. The Board of Adjustment shall organize and elect a chairman, vice chairman, and secretary from its membership to serve for the duration of his term. The Board of Adjustment shall then adopt rules for its own government in accordance with this Chapter and Sections 89.010-89.140 RSMo. Meetings shall be held at the call of the chairman and at such times as the Board of Adjustment deems advisable. The chairman, or in his absence the vice chairman, may administer oaths and the Board of Adjustment may compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The secretary shall keep minutes of the proceedings, indicating the vote of each member on each question, or if absent or failing to vote, so note. The secretary shall keep records of the Board of Adjustment's examinations and other official actions. All testimony, objections thereto, and rulings thereon, shall be recorded, taken down and later transcribed. The secretary shall conduct all official correspondence and supervise the clerical work of the Board of Adjustment. Four (4) members of the Board of Adjustment shall constitute a quorum. The Board of Adjustment shall act by resolution; and the concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any administrative official of the city, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to affect any variation in such ordinance.

3. Powers of the Board of Adjustment. The Board of Adjustment shall have the following powers:

a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official, in the enforcement of this Chapter.

b. To hear and decide all matters referred to it or upon which it is required to pass under this Chapter.

c. In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter, to vary or modify the application of any of the regulations or provisions of this Chapter relating to the construction or alteration of buildings or structures or the use of land so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done.

d. In exercising the above-mentioned powers such Board may, in conformity with law, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring

vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass or to affect any variation in this Chapter.

Subchapter O Appeals to the Board of Adjustment

42.1700. Purpose. It is the purpose of this section to provide for an appeals process which allows appeals to the Board of Adjustment by any person aggrieved or by any officer, department, Board, or bureau of the municipality affected by any decision of the zoning inspector or the Planning and Zoning Commission.

42.1710. Application. Application for an appeal shall be made to the Zoning Inspector and shall be accompanied by the following:

1. A notice of appeal specifying the grounds thereof.
2. A deposit to cover costs in accordance with the current fee schedule. If the actual costs exceed the amount of said filing fee deposited, then the applicant shall forthwith pay any such additional amounts to the City of Holts Summit, Missouri. If the filing fee deposit provided for herein exceeds actual costs, then the City of Holts Summit shall refund to the applicant the amount of such deposit not necessary to cover all such expenses.

42.1720. Procedure.

1. The Zoning Inspector from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the actions appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of adjustment after the notice of appeal shall have been filed with him that, because of the facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

2. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

42.1730. Appeals from decisions of the Board of Adjustment. Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment or any officer, department, board, or bureau, of the City of Holts Summit may present to the circuit court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the

grounds of the illegality. Such petition must be presented to the court within thirty (30) days after the filing of the decision in the office of the Board, and thereafter proceedings shall be had thereon as provided by Section 89.010 to 89.140 RSMo.

Subchapter P
Variance Requests
(Determined by the Board of Adjustment)

42.1800. Purpose. It is the purpose of this section to provide for variance requests where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter, to vary or modify the application or any of the regulations or provisions of this Chapter relating to the construction or alteration of buildings or structures or the use of land.

42.1810. Application. Applications for a variance may be made by any person, or his agent, who owns the land. If such application is made by the owner's agent, such agent shall enter upon the application the name and current mailing address of the owner. Applications for a variance request shall be accompanied by the following:

1. Completed application forms.
2. A deposit to cover costs ~~in the amount of \$250~~ in accordance with the current fee schedule. If the actual costs exceed the amount of said filing fee deposited, then the applicant shall forthwith pay any such additional amounts to the City of Holts Summit, Missouri. If the filing fee deposit provided for herein exceeds actual costs, then the City of Holts Summit shall refund to the applicant the amount of such deposit not necessary to cover all such expenses.
3. A full legal description of the subject property and a general location description of the property. The legal description must be accompanied by a recorded (with Callaway County Recorder's seal) deed which includes the property in question.
4. The application must be accompanied by ten (10) copies of a map of the land in question, showing the adjoining, opposite and abutting tracts, and ownership of each tract; also, the position of all present buildings and proposed developments.
5. The applicant must notify all property owners ~~adjacent, opposite and abutting to or within an area determined by lines drawn parallel to and two hundred (200)~~ within 185 feet distant from the boundaries of the property, of his intention to apply for a variance, and that he has fully informed them of the type of variance requested and has explained the intended development proposed for the area if any. The applicant will notify the property owners within ~~300~~ one hundred eighty five (185) feet by means of a form letter provided by the City Clerk which will show the date of the public hearing and information pertaining to the procedures for filing for a variance. The applicant must provide the City Clerk with a copy of the letter and the certified mail receipts prior to the first public hearing.
6. The application shall be mailed to the Board of Adjustment with notification

of the public hearing. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the Board of Adjustment, be continued. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation within the City of Holts Summit.

7. At its next schedule meeting, the Board of Adjustment shall consider and vote on whether to grant the variance.

42.1820. Appeals from decisions of the Board of Adjustment. Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment or any officer, department, Board, or bureau, of the City of Holts Summit may present to the circuit court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to the court within thirty (30) days after the filing of the decision in the office of the Board of Adjustment, and thereafter proceedings shall be had thereon as provided by Section 89.010 to 89.140 RSMo.

Subchapter Q
Interpretation and conflict with other laws
Violation and Penalty

42.1900. Interpretation and conflict with other laws. In interpreting and applying the provisions of this Chapter, they shall be held to the minimum requirements for the promotion of the health, safety, morals, or general welfare. Whenever this Chapter requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or less number of stories, or requires a greater percentage of lot to be left unoccupied, or imposed higher standards than are required in any other statute or local ordinance or regulations, the regulations of this Chapter shall govern.

42.1910. Violation and penalty.

1. In case any structure is erected, constructed, or reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of this Chapter, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

2. The owner or general agent of a building or premises where a violation of any provision of this Chapter has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises where such violation has been committed or shall exist, or general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be subject to a fine of not less than Ten Dollars (\$10) and not more than Two Hundred and Fifty Dollars (\$250) for each and every day that such violation continues after due notice as provided herein, but if the offense be willful, on conviction thereof, the punishment

shall be a fine of not less than Two Hundred and Fifty Dollars (\$250) nor more than Five Hundred Dollars (\$500) for each and every day that such violation shall continue. Any person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten days after such service or shall continue to violate any provision of the regulations made under authority of this Chapter in the respect named in such order, shall also be subject to a civil penalty of Two Hundred Fifty Dollars (\$250).

42.1920. Validity. In case any portion of this Chapter shall be held to be invalid or unconstitutional, the remainder of the Chapter shall not thereby be invalid, but shall be in full force and effect.

Section 2 All ordinances or portions of ordinances, which are inconsistent with this, are hereby repealed.

Section 3. Effective Date. This ordinance shall be in full force and effect immediately upon its final passage.

FIRST READING HELD ON THIS 8TH DAY OF MARCH.

SECOND AND FINAL PASSAGE THIS ____ DAY OF _____, 2018.

Landon Oxley, Mayor

ATTEST:

Amy Burec, City Clerk