

ZONING AND SUBDIVISION REGULATIONS

14.1 - INTRODUCTION

Zoning

The zoning of land is essentially a means of insuring that the land uses of a community are properly situated in relation to one another, providing adequate space for each type of development. It allows the control of development density in each area so that property can be adequately serviced by such governmental facilities as the street, school, recreation, and utilities systems. This directs new growth into appropriate areas and protects existing property by requiring that development afford adequate light, air and privacy for persons living and working within the City.

Zoning is probably the single most commonly used legal device available for implementing the land-use plan of the City. Zoning can be defined as the division of a City into districts, and the regulation within those districts of:

- 1.) The height and bulk of buildings and other structures;
- 2.) The area of a lot which may be occupied and the size of required open spaces;
- 3.) The density of population;
- 4.) The use of buildings and land for trade, industry, residence, or other purposes.

The major importance of zoning to the individual citizen is the part it plays in

stabilizing and preserving property values

Subdivision

Subdivision regulations are adopted laws governing the process of converting raw land into building sites. This is accomplished through plat (map) of the proposed subdivision design being approved by the Planning Commission and City Council before the developer can make improvements or divide and sell his land. The approval or disapproval of the commission is based upon compliance or non-compliance of the proposal with development standards set forth in the subdivision regulations.

Subdivision regulations serve a wide range of purposes. To the health officer they are a means of insuring that new residential developments have a safe water supply and sewage disposal system and they are properly drained. To the tax official of the county, they are a step toward securing adequate records of land titles. To the city engineer they are a means of assuring safe design and proper construction of new streets, utilities, and drainage systems, as well as providing a record of the location of underground utilities. To the fire chief they are a means of securing water systems of adequate size and pressure for fire-fighting and streets on which his trucks can maneuver. To the school or parks official they are a way to preserve or secure the school sites and recreation areas needed to serve the people coming into a developing neighborhood. To the lot purchaser they are an assurance that they will receive a buildable, properly oriented, well-

drained lot, provided with adequate facilities to meet their day-to-day needs, in a subdivision whose value will hold up over the years. To the responsible developer they are protection against substandard competitors who might either undersell them or destroy the value of his well-planned subdivision with a shoddy one nearby.

From the view of a planner, subdivision regulations are important at two distinct levels. First, they enable the planner to coordinate the otherwise unrelated plans of a great many individual developers, and in the process to assure that provision is made for such major elements of the land development plan as rights-of-way for major thoroughfares, parks, major water lines and sewer outfalls, and so forth. Second they enable him to control the internal design of each subdivision so that its pattern of streets, lots, and other facilities will be safe, pleasant, and economical to maintain.

14.2 - BACKGROUND

Zoning

The need to regulate uses in each area of the City is a primary reason for adopting a zoning ordinance. The underlying purpose of separating different types of uses is twofold:

1.) To prevent the mixing of incompatible uses which may have such deleterious effects on one another as to depreciate property values and desirable environmental features.

2.) To insure that uses requiring expensive public service facilities such as major utility lines and heavily paved streets are restricted to those areas where these facilities

exist or are planned to be installed.

There are four basic types of zoning districts that serve the residents of Independence and they are agricultural, residential, commercial, and industrial. The first zoning ordinance for the City of Independence regulated, only commercial and industrial land use, and was adopted by the city in 1931. In 1950 a new ordinance was adopted along with zoning maps of the city as it then existed.

As a community grows and becomes more complex, constant improvements must be incorporated in to the zoning regulations. As a result of this improvement effort, a new zoning ordinance and a set of zoning district maps were drawn up. The zoning ordinance was adopted in 1962 and the zoning maps were adopted in 1965.

In 1970 a more the comprehensive zoning ordinance was presented to the Planning Commission and City Council and adopted in December of that year. The last major change in the zoning ordinance took place in 1980. The zoning ordinance was changed and eliminated the "step down" zoning classifications which basically allowed uses in a more restricted category to be developed in a less restricted category. In other words, R-1 single-family residential, the most restrictive category was allowed to be built in the M-1 Manufacturing districts.

Also lot sizes for single-family residential were changed and three new single-family residential categories were created and added to the ordinance. They included R-E, R-1, R-1a, which allowed for a new larger minimum lot size for each category and changed the old R-1 single-family classification to R-1b, which retained the same minimum lot size.

Two new commercial categories were

added CR-1, Limited commercial and residential uses and a new wholesale warehousing classification of C-3. The old C-2 and C-3 commercial categories were combined. These changes were adopted by the City Council on May 2, 1980. Subsequent changes to the current ordinance have been made to clarify sections or change paragraphs that pertain to a specific part of the ordinance.

Subdivisions

A subdivision is the division of a parcel of land into lots. Independence, along with most other cities, requires by ordinance that rights-of-ways, easements, and lots be designed in accordance with city standards and that improvements be installed in accordance with city construction specifications prior to the issuance of building permits.

Independence's first subdivision regulations date back to 1955. In 1969 more than twenty three years ago, the City Council requested that a new, improved subdivision ordinance be developed and submitted for their consideration. That ordinance, which resulted from numerous meetings with business groups, engineers, land surveyors, developers and citizens of Independence was finally approved October 18, 1971. A revision to this ordinance took place on December 12, 1974 to include a section on Minor Subdivisions of land.

The City has continually reviewed different sections of the existing regulations over the years to keep current with the changing building industry and the needs of the citizens of Independence. These reviews have resulted in a number of changes to the current subdivision regulations with the last change occurring on August 6, 1992. The continual review of these regulations is an important part of the process in maintaining the standards necessary for the development of the community.

14.3 - EXISTING ZONING REGULATIONS

The current zoning ordinance for Independence was adopted on May 2, 1980. All of the land within the corporate limits of the City is divided into fourteen zoning districts. Uses in each district are classified according to the "Standard Land Use Coding Manual", published by the Urban Renewal Administration, Housing and Home Finance Agency, and Bureau of Public Roads, Department of Commerce. The following zoning categories are used to identify specific land use classifications within the city limits of Independence:

- District A-1 Agricultural District
- District R-E Estate Residential District
- District R-1 Single-Family Residential
- District R-1a Single-Family Residential
- District R-1b Single-Family Residential
- District R-2 Two-Family Residential
- District R-3 Moderate-Density Residential
- District R-4 High Density Residential
- District CR-1 Limited Commercial and Residential District
- District C-1 Neighborhood Commercial District
- District C-2 General Commercial District
- District C-3 Wholesaling District
- District M-1 Industrial District
- District M-2 Industrial Park District

A-1 Agricultural District

The agricultural district allows agriculture uses and other related and accessory uses. Agricultural districts are found primarily in the eastern portion of the city, and are also considered as a holding zone allowing agriculture until urban development patterns expand to replace the agriculture uses.

In addition to agricultural uses this zoning

schools, churches, utility installations, golf courses, country clubs, home occupations and residential care facilities.

R-1b Single-Family Residential District

This residential district allows the greatest density for single-family residential developments. The minimum lot size is 7,200 square feet with a lot width of 60 feet. The minimum front and rear yard requirement is 25 feet, and the side yard requirement is seven feet. Other allowed uses are generally the same as the R-1a district.

The sample plot plan map, Figure 14.31 on the preceding page, illustrates a typical layout for a single-family residence with the minimum yard setbacks and area requirements of the R-1b zoning district.

R-2 Two-Family Residential District

This is the first residential district that allows more than one dwelling unit in a single building. The primary uses in this district are duplexes and single-family residences. The minimum lot area per family is 3,600 square feet with a minimum lot size of 7,200 square feet. The minimum lot width is 60 feet, and the minimum front and rear yard requirement is 25 feet with a minimum side yard requirement of seven feet. Other allowed uses in the R-2 district are the same as in the R-1b district.

R-3 Moderate Density Residential District

This zoning district allows multi-family apartments, duplexes and single-family residences. The minimum lot area per family unit is 2,500 square feet, and the minimum lot size is 7,200 square feet. The minimum lot width is 60 feet, and the minimum front and rear yard requirement is 25 feet with a minimum side yard requirement

of seven feet. Other uses allowed in the R-3 district include schools, churches, utility installations, golf courses, country clubs, residential care facilities, group homes, mobile home parks, and nursery schools.

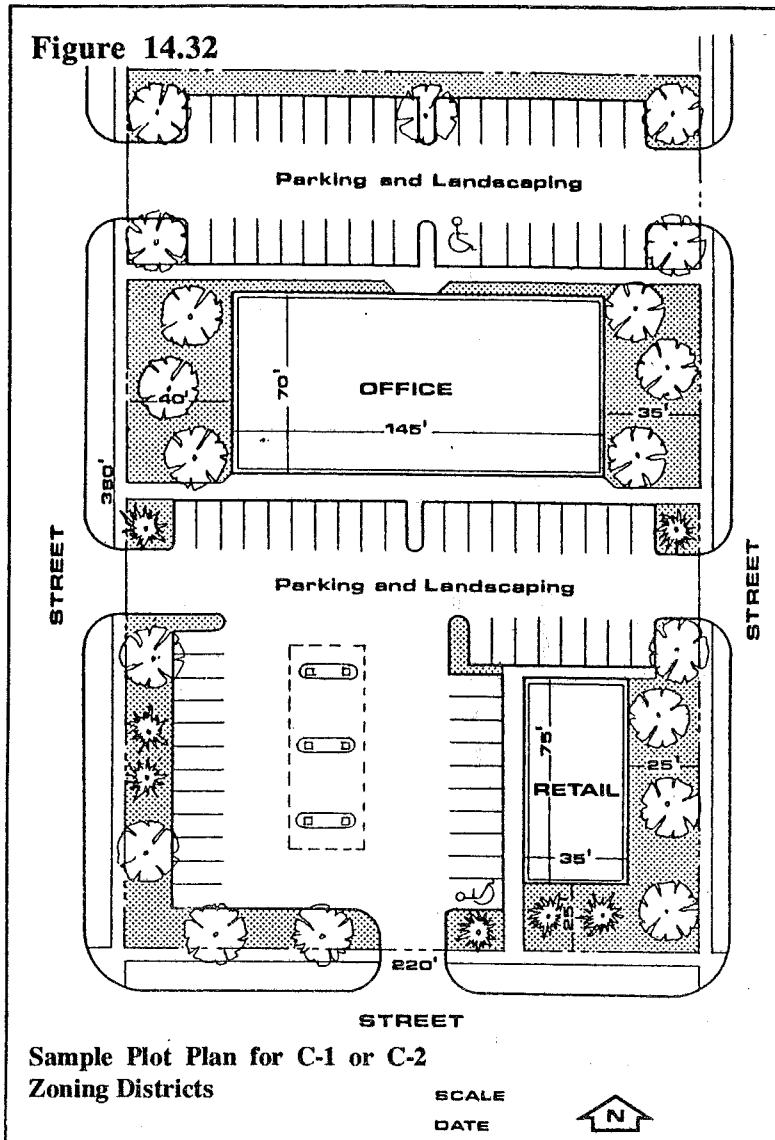
R-4 High Density Residential District

This zoning district allows the highest density of residential development with a minimum lot area per apartment unit of 1,000 square feet. The primary uses allowed in this district are multi-family apartments, duplexes and single-family residences. The minimum lot size is 7,200 square feet with a minimum lot width of 60 feet. The minimum front and rear yard requirement is 25 feet, and the side yard requirement is seven feet. The other uses allowed in the R-4 zoning district are the same as in the R-3 zoning district.

Commercial Districts

There are four commercial zoning districts, CR-1, C-1, C-2, and C-3 in Independence. The districts increase in the intensity of commercial use from the CR-1 district through the C-3 district. Generally the CR-1 district allows multi-family residential and non retail commercial uses. The C-1 district is a neighborhood commercial zoning district that allows retail and service commercial uses that serve a neighborhood market area. The C-1 district does not include automobile service related uses. The C-2 district is a general commercial district that allows most retail and services uses including all automotive orientated businesses. This district includes most strip commercial areas and shopping centers. This is the most prevalent commercial district in the City. The C-3 district allows the heaviest commercial uses, and is primarily a warehousing and wholesaling district with only limited retail and service commercial uses allowed. Residential uses are not allowed in C-1, C-2 or C-3 commercial districts unless they are in buildings combining both commercial and residential uses.

Figure 14.32



Sample Plot Plan for C-1 or C-2 Zoning Districts

SCALE
DATE

The maximum height permitted in all commercial districts is a base height of 45 feet. Additional height is permitted if the required yard areas are increased. Off-street parking is required in all commercial districts based on the use of the property and the size of the development.

CR-1 Limited Commercial and Residential District

This is a transition zoning district that combines multi-family residential and limited commercial uses. This zoning district allows primarily office, service and non-retail type commercial

uses that would be compatible with multi-family residential developments. In addition to the commercial and multi-family residential uses, schools, churches and utility installations are permitted. The residential density permitted is the same as in an R-4 zoning district, one dwelling unit for each 1,000 square feet of land area. The minimum front and rear yard requirement is 25 feet, with a side yard requirement of seven feet. Only wall signs and monument signs are permitted in a CR-1 zoning district.

C-1 Neighborhood Commercial District

This commercial district generally allows retail trade, personal and professional services, limited home appliance repair services and governmental services that are normally found in the neighborhood shopping centers. The maximum size of a commercial business allowed in a C-1 district is 5,000 square feet. Other uses permitted are the same as in the CR-1 district. The minimum front and rear yard requirement is 25 feet, and there is

no side yard required. Wall signs, monument signs and free standing pole signs are permitted in a C-1 zoning district.

The sample plot plan, Figure 14.32 illustrates a typical layout with building setback and parking requirements for a retail and office commercial development.

C-2 General Commercial District

This commercial district allows all retail trade, personal and professional services, government services and cultural-entertainment-recreational services. This is the most common commercial

zoning district in the City, and will accommodate a small strip center or a large regional shopping center. Other uses permitted include schools, utility installations, limited manufacturing uses and off-premises advertising services. The minimum yard requirements are the same as in the C-1 district. Wall signs, monument signs and free standing pole signs are permitted in the C-2 zoning district.

C-3 Wholesaling District

This commercial district acts as a transition zone between commercial and manufacturing zoning districts. The commercial uses permitted are classified as heavy commercial uses. The primary uses permitted are warehousing and wholesaling services. Also permitted are limited manufacturing uses, transportation uses, limited retail, repair, personal and professional services and off-premises advertising services. The minimum front, rear and side yard requirement is 25 feet. Wall signs, monument signs and free standing pole signs are permitted in the C-3 zoning district.

Industrial Districts

There are two industrial districts, M-1 and M-2 in Independence. The M-1 classification is a general industrial zoning district that provides for manufacturing uses throughout the developed part of the City. The M-2 classification is an industrial park zoning district created primarily for use in the Little Blue River Valley and other undeveloped areas scheduled for future industrial development.

M-1 Industrial District

This industrial district allows manufacturing, limited transportation, communication, and utility services, wholesaling, warehousing and limited retail, repair, personal and governmental

services. The minimum front yard required is 25 feet. The minimum rear and side yard required is ten feet. Wall signs, monument signs and free standing pole signs are permitted in the M-1 Zoning District.

M-2 Industrial Park District

This industrial district provides for a park type setting for developments. The primary uses permitted are manufacturing and agriculture. The idea is that the industrial development in developing portion of the City will take place over a period of years, and will develop existing agricultural land. This district allows for the orderly development of the industrial uses while still allowing the continuation of agriculture. This also will work to keep the land in larger ownerships, which will aid in the assemblage of future development tracts. Other uses permitted include warehousing, wholesaling, limited retail, personal, professional and governmental services. This zoning district requires larger yard spaces, with all required yards being at least 25 feet. There is also a maximum building coverage ratio of fifty percent. Wall signs, monument signs and free standing pole signs are permitted in the M-2 zoning district.

14.4 - EXISTING SUBDIVISION REGULATIONS

To be most effective, subdivision regulations and their administration are closely coordinated with certain other city policies, ordinances, and activities. Among the most important of these are the comprehensive plan, the official city map, the zoning ordinance, city policies for the extension of utilities or streets, and health regulations.

The current subdivision regulations were adopted by the Independence City Council on October 18, 1971 after numerous reviews and

public meetings with developers and builders located in Independence.

Minor Subdivisions of Land

This classification was developed to provide a control for the splitting of land parcels into smaller lots and to require a minimum lot size for these new parcels with an accurate legal description of the property. It also insures the buyer of this property that it meets the minimum requirements in order to build a structure in Independence.

Any parcel of land that is divided into no more than three parcels of land is required to submit a Minor Subdivision plat to the City for approval before it is recorded by the Jackson County Recorder of Deeds. This land survey has to be prepared by a registered land surveyor or engineer and meet certain requirements as outlined in the Minor Subdivision section of the Subdivision Regulations.

Major Subdivision of Land

The subdividing of land for the development of property is a three part process in Independence. Prior to any subdivision application, the subdivider is required to submit a sketch plan to the Planning Department of the proposed subdivision. The sketch plan is required to show the existing and proposed drainage of the property, existing and proposed roadways, and existing and adjacent utilities. The Planning Department reviews this sketch plan for compliance with the Subdivision Regulations, the Zoning Ordinance, the Comprehensive Plan, the Thoroughfare Plan, and then consults the Planning Commission concerning the design of the proposed subdivision.

After the sketch plan is approved the subdivider is required to prepare a preliminary plat, which shows in detail those items that are listed in the Subdivision Regulations in

order to allow the City Departments and Planning Commission to review the plat for compliance to the city regulations.

The preliminary subdivision plat graphically illustrates the following list of requirements that is necessary to complete before the final plat can be submitted for review.

- 1.) Water courses, drainage way, channel or stream, storm-water easements.
- 2.) Street and Alley right-of-ways, widths, horizontal curves, and street grades according to the Thoroughfare Plan.
- 3.) Lots platted for residential, commercial, or industrial uses according to the requirements of the zoning and subdivision regulation.
- 4.) Easements required for utilities are shown on the plat and the area which is set aside to meet the recreational open space requirements.

After approval of the preliminary plat by the City Council and after approval by the City Engineer of the final engineering drawings, the subdivider is required to submit a Final Plat. The final plat shows in detail those items that are listed in the Subdivision Regulations in order for the Planning Commission to review for compliance and recommendation to the City Council for final approval or disapproval.

14.5 - PROPOSED CHANGES TO THE ZONING AND SUBDIVISION REGULATIONS

Zoning

Agricultural District

In this district it is proposed to change the

minimum lot size to conform to similar requirements of Jackson County, Missouri. This change will help control the non-agricultural development of single-family residential uses in land zoned for agricultural uses.

The new requirement for lot size for single-family residential buildings would be one (1) acre with a lot width equal to one fourth the depth of the lot. This will give an adequate width ratio to lot depth for frontage on a public dedicated street right-of-way. Those lots not on a public sanitary sewer system would be required to not be less than two (2) acres in size.

Also any parcel of land divided into less than ten acres would require a subdivision plat and a rezoning to a single-family residential use.

Multi-Use District

This is a new classification proposed for the zoning ordinance, but is similar to the current CR-1 limited commercial and residential district. This classification would allow residential units and apartments combined with; limited retail uses; service orientated professional and office businesses; eating and drinking businesses; governmental services; and cultural, entertainment and recreational uses. The automotive and repair services would not be allowed in this new district, but would be located in the higher volume commercial areas.

The new Multi-Use District would offer a larger range of uses to be available to property owners in these areas. This will help stimulate the redevelopment and create a market in the older areas of the city. This classification allows uses that are complimentary to each other and would not generate a high traffic problem, which is important to those areas that have limited parking available.

The Independence Square is a logical area for this new district, which will allow a diversity of uses. There are three other existing commercial areas in the older northwestern portion of the City that are proposed to be changed to the Multi-Use District. The three areas are Fairmount Business District, Maywood Business District, and Englewood Business District.

Two strip commercial areas along existing major streets are proposed to be changed to this classification. The first area is U.S. 24 highway from Kentucky to Arlington and Northern Boulevard to Sterling. The second area is Truman Road from Franklin Avenue to Scott Avenue and Chrysler Avenue to River Boulevard. This new category coupled with the landscape ordinance would help to revitalize these areas and improve the visual appearance to the entrances of the older sections of the City.

Also, a small residential area south of Interstate 70 and west of Noland Road is sandwiched between commercial property on three sides and industrial zoning to the west. A gradual change from single-family homes located here and the vacant industrial land to the west of this subdivision to the Multi-Use District is recommended for this new classification.

The last area that is recommended for the new is in the southeastern portion of the City. Generally that area north of the Independence Shopping Center, the vacant area which lays west of the Shopping Center and the Interstate 470 - 39th Street interchange, and the area south of Interstate 70, east of Lee's Summit Road, north of U.S. 40 highway and west of Interstate 470 (Missouri 291 highway).

These three areas are proposed for the new classification because of the rough terrain, limited street access, and would allow a diversity of uses that would be complementary to the development currently in those areas.

Subdivision Regulations

Park Land Dedication

A new section to the subdivision regulations that would require the mandatory dedication of park and open space as a part of the subdivision process will reduce the need to acquire new park land in the developing portions of the City. This will help to insure that park lands would be available to citizens in the new areas of the City as the subdivisions are developed. New subdivisions with less than four (4) acres of land may be required to locate the open space at a suitable place at the periphery of the subdivision, so a more useable tract will result when additional open space is obtained when adjacent land is subdivided.

Another requirement for park land dedication would be that if the subdivider and the City are unable to agree upon the location of the land to be dedicated as required, the subdivider will pay cash-in-lieu of dedicating land, as required. This will be based on the "fair market value" of the acres of unimproved land in the area.

Also, if the park land dedication is less than two (2) acres, the City as its option, may elect to require the subdivider to pay cash-in-lieu of dedicating land. A special fund will be required to be created for all fee-in-lieu of dedication of park land.