

or bulkheads, fire towers, silos, penthouses, stacks, stage towers or scenery lofts, tanks, water towers, pumping towers, radio towers, television antennas, masts, and masts, and other structures pertaining to and necessary to the permitted uses of the district in which they are located, shall not be included in calculating the height of the principal structure.

13.03 HEIGHT OF PARAPET WALLS. Parapet walls may extend not more than 5 feet above the allowable height of a building.

13.04 HEIGHT OF INDUSTRIAL BUILDING WHEN LOCATED IN TWO OR MORE ADJOINING INDUSTRIAL ZONES. A building or structure may be increased in height, in addition to the height is permitted in the district regulations, when that portion of such building or structure is set back from the front, side or rear property line equal to the height of that portion of the building or structure.

13.05 FRONT YARDS REQUIRED FOR INDUSTRIAL PROPERTY IN ONE OWNERSHIP AND IN TWO OR MORE DISTRICTS. When property owned by one person and used as one parcel, is located in 2 or more adjoining districts or zones, only one front yard shall be required, but such front yard shall conform to front yard requirements of the more restrictive district. No side yard shall be required to separate the two or more differently zoned districts.

ARTICLE XIV BOARD OF APPEALS

Section 14.01 There is hereby created a Board of Appeals on Zoning, which shall consist of 6 members, appointed by the Council of the City, not less than 2 members of which Board shall be members of the City Council, one of which shall be the Mayor and in his absence the Mayor-Pro-Tem. Such appointments shall be for a term of 3 years, provided that the first appointments shall be for 2 members for one year, 2 members for 2 years and 2 members for 3 years.

The term of any member of said Board, who is also a member of the Council shall automatically terminate when he shall cease to be a member of the Council.

The members shall be citizens of the United States and residents of the City of Farmington for a full year prior to appointment. Members may be removed by the City Council for non-performance of duty or misconduct in office upon written charges and after public hearing. Any vacancies in the Board shall be filled by the City Council for the remainder of the unexpired term. The compensation of the members of the Board shall be fixed by the City Council.

14.02 OFFICERS OF THE BOARD OF APPEALS. The Board of Appeals shall appoint a secretary who shall take and record all records of the Board's action and copy of such records shall be kept in the office of the City Clerk. The City Attorney shall act as legal counsel for the Board of Appeals and shall be present at all meetings upon request of the Board.

14.03 MEETINGS, RECORDS AND RULES OF PROCEDURE. Meetings of the Board shall be held at the call of the chairman and/or such times as the Board may determine. Such chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public and shall be held at the place where the City Council regularly meets.

The Board shall keep a permanent record of its proceedings and the disposition of all matters requiring its decision, together with the vote of each member upon each matter considered.

The Board shall make reasonable rules for the filing of appeals and the presentation of all matters requiring its attention, and when required shall hold hearings upon such appeals or other matters. The presence of 4 members shall be necessary to constitute a quorum. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant, any matter upon which they are required to pass under this ordinance, or to effect any variation in this ordinance.

14.04 APPEAL. Appeal from the decision of the Building Inspector or any other administrative officer concerning the enforcement of the provisions of this ordinance may be made to the Board of Appeals, not later than 10 days after the date of the order or decision from which such appeal is to be taken, by any person aggrieved or by any officer or department, board or bureau of the City. The appellant shall file with the Building Inspector and with the Board of Appeals, on blanks furnished by the Building Inspector, a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all papers constituting the records upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution, either reversing, modifying or affirming wholly or partly, the decision or determination appealed from.

The order, requirement, decision or determination must be complied with within six months of the date of the resolution by the Board. The Board may grant a renewal of their order, requirement, decision or determination for a limited period of time, or may require the appellant to file a new notice of appeal, as in the first instance.

14.05 STAY. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, in such cause, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application or notice to the officer from whom the appeal is taken and due cause shown.

14.06 INTERPRETATION. The Board shall interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several zoning districts accompanying and made part of this Ordinance, in those cases where the street layout actually on the ground varies from the street layout as shown on the aforesaid map.

14.07 HEARINGS. The Board of Appeals shall hold a public hearing on such appeal within 21 days from the date of filing thereof and give notice of the time, date and place thereof to the City Planning Commission, to all persons to whom any real property within 300 feet of the premises in question shall be assessed, such notice to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll and shall decide the same within 15 days after such hearing. Upon the hearing any party may appear in person or by agent or attorney.

14.08 FEES FOR APPEALS. A fee of \$10.00 shall

be paid to the Building Inspector at the time the notice of appeal is filed, which the Building Inspector shall forthwith pay over to the City Treasurer to the credit of the General Fund of the City of Farmington.

14.09 POWERS OF THE BOARD OF APPEALS. The Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, subject to the conditions and limitation of this Section, to that end shall have all the powers of the officer from whom the appeal is taken. The decision of the Board in these and all other matters heard by it shall be final insofar as it involves discretion or the finding of facts.

The Board of Appeals may, in specific cases and subject to appropriate conditions and safeguards, determine and vary the application of the regulations herein established in harmony with the general purpose and intent as follows:

(a) **DECISION OF BUILDING INSPECTOR.** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Building Inspector, or any deputy delegated by him in the administration and enforcement of this Ordinance.

(b) **ORDER REVIEW.** To order the Building Inspector to submit to it for review, any action which it deems proper to take within the scope of its powers, any application or other matter filed with him, or any permit granted by him which comes under the terms of this ordinance, if in its judgment such review and any consequent action by the Board of Appeals is necessary to maintain the spirit of this ordinance.

(c) **REVIEW — WHEN CERTIFICATE OF COMPLIANCE OR OCCUPANCY IS DENIED.** To hear and decide appeals from the action of the Building Inspector when a Certificate of Compliance or Occupancy has been refused or the construction or use of a building or land stopped because of failure of such building or use to comply with the provisions of this ordinance, or when such appeal is based on unusual conditions which it is alleged cause practical difficulties or unnecessary or unintended hardship in the application of the strict letter of the ordinance to the case under appeal.

(d) **ADVISORY OPINIONS.** To render an advisory decision, or opinion on any matter referred to it by the Building Inspector whether or not such matter is expressly or clearly implied by the terms of this ordinance as being within the scope of his power and authority to dispose of, when in his judgment, such action would be necessary or helpful in maintaining the spirit and intent of this ordinance.

(e) **APPROVAL OF APPLICATIONS.** When and if any part of an application is appealed or requires the approval of the Board of Appeals, the whole application and/or any part thereof is considered subject to review by the Board of Appeals and open to any action within the scope of the powers granted the Board by the laws of the State of Michigan and by the terms of this ordinance.

(f) To hear and decide upon the authorization of special exceptions to the terms of this ordinance or to effect any variation in this ordinance, upon which the Board is required to pass under the provisions of this ordinance as follows:

1. LOTS ABUTTING A DIFFERENT ZONING DISTRICT. Permit variation in the use and location of buildings on any lot abutting a different zoning district, provided that the use or location shall not have an undesirable effect upon the more restricted district and provided further that the yard requirements cannot be less than 50 per cent of the requirements for the more restricted district, and provided further, that the variation shall not extend more than 50 feet into the more restricted district.

2. HEIGHT OF BUILDING AS ORIGINALLY PLANNED. Permit the erection of a building to its full height or use, as originally planned, when foundations and structural members are designed to carry such buildings higher.

3. VARIATIONS IN COURTS, YARDS, LOT AREA AND PERCENTAGE OF LOT COVERS. To permit variations in the requirements for outer courts in dwellings and to permit such variation or modification of yard, lot area, and percentage of lot coverage, and floor area requirements of this ordinance as may be necessary to secure an appropriate improvement of a parcel of land which was of such size, shape or dimension, or which has such peculiar or exceptional geographical, topographical conditions that it cannot be appropriately improved without such variation or modification, provided that the purpose and spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

4. CIRCUSES, FAIRS, CARNIVALS AND SIMILAR USES. Permit a circus, fair, carnival and similar uses in any District under the following conditions:

(a) When engaged in by schools, churches, fraternal societies and similar not-profit organizations as an necessary use for the sole purpose of raising money for the financial support of such institutions in pursuit of their natural functions; Provided, that such uses are confined to the land and buildings normally used and occupied by such institutions.

(b) Such use and occupancy is temporary and/or seasonal only.

(c) Such use and occupancy is not detrimental to adjacent surrounding property.

(d) Such use and occupancy is not disturbing to the public peace and tranquility.

(e) Such use and occupancy will not create undue traffic hazard and congestion.

(f) Permits for such uses may be granted for periods not to exceed 8 days consecutively and may be renewable for not more than 8 days.

5. HOME OCCUPATIONS. Permit a residence to be used for a home occupation in an R-1-P, R-2 and R-3 District provided:

(a) That such use shall be conducted entirely within the dwelling and occupy not more than 25 per cent of the ground floor area thereof and not any of the floor area above the ground floor.

(b) That there shall be no display or advertising or other outward indication of such special use other than the name plate as specified, and

(c) That in other respects the building and premises shall be so treated and the permitted activity so conducted, that the use of such lot will be in harmony with the character of the district in which it is located.

6. INCIDENTAL REPAIR OR STORAGE FACILITIES. Permit repair and storage facilities incidental to any permitted uses in a C-1 District when such use is not visible from a street or sidewalk and when so arranged and maintained as to not adversely effect the normal development or use of neighboring prop-

erties and such use does not occupy over 25 per cent of the rear yard.

7. BUILDING SIZE REDUCTION. Permit the erection of a commercial building of a size less than that required in Sections 8.11 and 10.1 of this ordinance for businesses which, because of their specific characteristics such as real estate offices, outdoor sales offices, service shops or business of a similar nature, may not require the floor space as herein required.

8. LOADING SPACE VARIATION. Permit a variation or partial exception to the loading space provision of Section 3.18 where, after investigation by the Board, it is found that the volume of vehicular service will not require the full compliance with said provision, and will not cause undue interference with the public use of the streets or alleys or imperil the public safety and where such modification or exception will not be inconsistent with the purpose and spirit of this ordinance.

9. OFF-STREET PARKING VARIATIONS. Permit a variation or modification in the off-street parking requirements or in the off-street parking facilities required, or both, if after investigation, by the Board of Appeals, it is proven that such variation is necessary to secure an appropriate development of a specific parcel of land which has such peculiar or exceptional geographical or topographical conditions or is of a size, shape or dimension that it cannot be reasonably developed in accordance with the provisions of Ordinance C-40-54.

10. RESTRICTIONS ON BOARD ACTIONS. No variance in the application of the provisions of this ordinance shall be made by the Board of Appeals relating to land or premises or to buildings or structures now existing, or proposed to be constructed, unless after a public hearing the Board shall find that such variance will not:

1. Impair the adequate supply of light and air to adjacent property.

2. Increase the hazard from fire, flood or other dangers to said property.

3. Diminish the market value of adjacent land and buildings.

4. Increase the congestion on the public streets.

5. Otherwise impair the public health, safety, comfort and general welfare.

14.10 FURTHER POWERS OF BOARD. The Board of Appeals shall have the power and authority to approve or conditionally approve the issuance of a permit for the establishment, erection, reconstruction, structural alteration, enlargement or addition to, or any of the following uses:

1. Any use which, as provided by the district regulations and/or other regulations or provisions of this ordinance, shall be permitted in a certain district or in certain districts only on approval of this Board.

2. Removal of gravel to surrounding grade level in M-3 Districts.

3. Public utility purposes, in any permitted district to a greater height or of a larger area than otherwise permitted in said district, and permit the location in any district of a public utility building, structure, or use; Provided the Board of Appeals shall find such use, height, area, building or structure reasonably necessary for public convenience and service, and Provided, further, that such building, structure and/or use is designed, erected and landscaped so as to harmonize with the general architecture and plan of buildings and land use of such district.

4. Schools, nurseries, churches, community buildings, libraries, museums and institutions of an educational, philanthropic, or charitable nature, in any district except M-3.

5. Any local, state or national governmental purpose, in any district, when found to be necessary for the public health, safety, convenience and welfare.

6. Public parking adjacent to and for the uses listed in Paragraphs 4 and 5 above.

7. A temporary building in R-1-E, R-1, R-2, R-3, C-1 and C-2 Districts for a period of not more than one year, when incidental to the erection of structures or uses permitted in such districts.

8. After Planning Commission approval, permit the extension of a use into a district where it would otherwise be prohibited, in a case where a district boundary line is so located that a lot or plot is in more than one district. Action of the Board on any such matter shall be taken only after an application therefor in writing shall be filed with the Building Inspector and shall be governed by the required procedure for an appeal, including holding a hearing. Such extension shall not be made for a distance of more than 50 feet.

9. MOTOR SUPPLY STATIONS AND SERVICE GARAGES. Permit the erection and use of a motor supply station in C-2, M-1, M-2 and M-3 Districts, subject to the following conditions and safeguards:

(a) Motor supply stations shall observe all regulations required for such structures and their uses by the laws of the State of Michigan and any ordinances of the City of Farmington.

(b) Motor supply stations shall provide a front yard and a side yard of not less than 20 feet each.

(c) Motor supply stations, including any part of the facade, and other structure or part of any other structure on the same lot, shall not exceed 25 feet in height.

(d) Open spaces may be used by operators of motor supply stations for the types of services customarily rendered to the public by garages, if adjacent to such garages, only for storage, parking or sales display purposes, and incidental and minor repairing of complete motor vehicles or tractors and trailers; Provided, such open spaces do not occupy more than 20 per cent of the frontage of any one block.

(e) Pumps, hoists or other equipment, used in servicing of motor vehicles by operator a service garage or motor supply station, shall be placed and used only inside the lot lines and not nearer than 10 feet to any lot line adjacent to a street or sidewalk; and no servicing shall be permitted on any vehicle while said vehicle is resting wholly or partly on a sidewalk or on a public street or highway.

(f) On all corner lots all vehicular entrances to or exits from any curb openings shall be set back a minimum of 10 feet from the corner property lines extended or from the established right-of-way lines as shown on the Master Thoroughfare Plan. All curb openings, whether on a corner lot or not, shall not exceed 34 feet in width at the curb line, and 20 feet at the property line. There shall be a minimum of 20 feet measured along the curb line between any series of driveways.

(g) No motor supply station or service garage shall be situated and no property shall be used as such nearer than 300 feet to any church, school, theater, store or any other place where 25 or more persons ordinarily, and with some regularity, are gathered for any lawful purpose.

(h) All gasoline and other combustible fuels used