Repealed

ORDINANCE NO. 478

AN ORDINANCE TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES, SIZE OF BUILDINGS AND OTHER STRUCTURES; THE PERCENTAGE OF EACH LOT THAT MAY BE OCCUPIED; THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACES; THE DENSITY OF POPULATION; THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE OR OTHER PURPOSES; TO DIVIDE THE CITY OF REXBURG INTO DISTRICTS OR ZONES; PROVIDING SPECIAL REGULATIONS FOR EACH DISTRICT OR ZONE; FIXING THE STANDARDS TO WHICH BUILDINGS OR STRUCTURES SHALL CONFORM THEREIN; PROHIBITING USES, BUILDINGS OR STRUCTURES INCOMPATIBLE WITH THE CHARACTER OF THE DISTRICTS OR ZONES RESPECTIVELY; PREVENTING ADDITIONS TO AND ALTERATIONS OR REMODELING OF EXISTING BUILDINGS OR STRUCTURES IN SUCH A WAY AS TO AVOID THE RESTRICTIONS AND LIMITATIONS IMPOSED HEREUNDER; CREATING A BOARD OF ADJUSTMENT; DEFINING CERTAIN TERMS SET FORTH THEREIN: PROVIDING THAT A ZONING MAP AND OFFICIAL ZONING REQUIREMENTS BE FILED WITH THE CITY CLERK; PROVIDING OFF-STREET PARKING REQUIREMENTS; PROVIDING FOR CHANGES AND AMENDMENTS OF THE ZONING REGULATIONS, RESTRICTIONS AND BOUNDARIES; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS SETTING FORTH THE MANNER IN WHICH SUCH PROVISIONS SHALL BE ENFORCED BY ANY APPROPRIATE ACTION OR PROCEEDING; REPEALING ORDINANCE NO. 390 ENTITLED "THE ZONING ORDINANCE" AS AMENDED BY ORDINANCES NOS. 436, 441, 443, 448, 452, 458, 471, 477, AND ALL OTHER AMENDMENTS TO ORDINANCE NO. 390.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG, IDAHO:

1. SHORT TITLE OF CHAPTER. This Chapter may be referred to as "Zoning Chapter."

2. INTERPRETATION. In their interpretation and application the

the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. To protect the public, among other purposes, such provisions are intended to provide for adequate light, pure air, the prevention of blight conditions, safety from fire and other danger, undue concentration of population and ample parking facilities.

3. SCOPE. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the city is a party. Where this chapter imposes a greater restriction upon land, buildings or structures than is imposed or required by such provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

4. DEFINITIONS, GENERALLY. For the purpose of this chapter, certain terms and words are defined as follows:

Words used in present tense include the future; words in the singular number include the plural number, and words in the plural include the singular number; the masculine gender includes the feminine and neuter genders; and the word 'building' includes the word 'structure' and the word 'lot' includes the words 'plot' and 'parcel'; 'signature' includes the mark when the person cannot write. The word 'person' includes association, societies, partnerships, corporations, religious, educational and fraternal organizations.

5. ACCESSORY BUILDING DEFINED. An accessory building is a subordinate building which is located on the lot occupied by the main building, and the use of which is clearly incidental to the use of the main building.

6. EFFICIENCY APARTMENT DEFINED. An efficiency apartment is an apartment unit with unseparated areas for sleeping and/or cooking.

7. APARTMENT UNIT DEFINED. Apartment units are dwelling units when more than four (4) are combined under one (1) roof.

8. BLOCK DEFINED. A block is the property fronting on one side of any street, avenue, or boulevard between the two (2) nearest of any of the following intersecting such street, avenue or boulevard, to wit: street, avenue, boulevard, park, railroad right of way.

9. BOARDING HOUSE DEFINED. A boarding house is a building or premises where meals are served for compensations for five (5) or more persons but not exceeding twenty (20) persons.

10. CURB-CUT DEFINED. A curb-cut is a space utilized for vehicular access to properties from streets.

11. MULTI-DWELLINGS DEFINED. Each dwelling unit in a multi-dwelling shall not exceed two (2) floors and have a separate entrance from the ground on which the structure is erected. Any structure of two or more dwelling units which does not provide this shall be classified as an apartment house.

12. SINGLE FAMILY DWELLING DEFINED. A single family dwelling is a detached building having accommodations for and occupied by one (1) family only.

13. DWELLING UNIT DEFINED. A dwelling unit is a dwelling or portion thereof, providing living facilities for one family, including permanently installed equipment for cooking, or provision for same and including rooms for living, sleeping and eating.

14. FAMILY DEFINED. A family is any number of individuals living and cooking together on the premises as single housekeeping unit.

15. MINIMUM FLOOR AREA DEFINED. Minimum floor area is the minimum area of completely enclosed, roofed floor area, exclusive of garages and non-clothing storage space, which will be allowed in a zone.

16. FRINGE ZONE AREA DEFINED. Fringe zone area is the area at the perimeter of zones wherein zone requirements are varied in accordance with the provisions herein in order to insure an easy transition between zones of differing character.

17. GASOLINE AND/OR OIL STATION DEFINED. A gasoline and/or oil station is any building or portion thereof and the land upon which it is situated used for supplying fuel and/or oil for motor vehicles at retail, direct to the consumer and/or making minor vehicular repairs, such supplying to be by an attendant, or without.

18. HOTEL DEFINED. A hotel is a building or premises where lodging is provided, with or without meals for more than twenty (20) persons.

19. JUNK DEFINED. Junk is any worn out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for wreckage, salvage or resale or conversion to another use.

20. JUNK YARD DEFINED. A junk yard is any space not within a totally enclosed building, wherein junk is accumulated.

21. LANDSCAPE DEFINED. Landscape is trees, shrubs, grass, flowers (may be in planting boxes) and/or vegetation ground cover of an ivy type.

22. LODGING HOUSE DEFINED. A lodging house is a building or premises where lodging is provided for compensation for five (5) or more persons but not exceeding twenty (20) persons.

23. LOT DEFINED. A lot is land occupied or to be occupied by one (1) building and accessory buildings and uses and including open spaces required under this chapter. A lot may be land shown as such on the records of the County Clerk and Recorder of Madison County, Idaho.

24. CORNER LOT DEFINED. A corner lot is a lot situated at the junction of and fronting on two (2) or more streets. Its width dimension is its 'front' and its depth dimension is its 'side' for the purposes of this chapter. Where there is doubt or dispute on this point the decision of the building inspector shall control.

25. INTERIOR, INSIDE LOT DEFINED. An interior or inside lot is a lot other than a corner lot.

26. LOT LINE DEFINED. A lot line is the line bounding a lot as a lot is defined herein.

27. MOTEL DEFINED. A motel is a group of attached or detached buildings containing individual sleeping or living units, other than hotels or apartment houses, which are designed and/or intended for temporary occupancy from day to day by transients at the daily or weekly rate. Motel as herein defined includes auto court, auto camp and tourist camp.

28. OFF-STREET PARKING SPACE DEFINED. An off-street parking space is a space set aside for the parking of automobiles outside of street rights of ways, alleys and private drives.

29. ROOMING UNIT DEFINED. A rooming unit is a space for human occupancy lacking private bath and/or kitchen facilities.

30. MOBILE HOME DEFINED. A mobile home is any vehicle or structure so designed and constructed in such manner as will permit occupancy thereof,

as sleeping quarters for one (1) or more persons, or the conduct of any business or profession, occupation or trade (or use as a selling or advertising device) and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own power or other motive power, excepting a device used exclusively upon stationary rails or tracks.

31. MOBILE HOME COURT DEFINED. A mobile home court is a defined area in which space for the parking of mobile homes and/or utility and sanitary facility connections therefor are rented for temporary occupancy and use.

32. TRANSITION ZONE AREA DEFINED. A transition zone area is an area in which residential uses are in existence which are non-conforming with regard to the use zoned for and are delineated as such as provided for in this chapter. These are areas which will undergo a major change in character in the future due to a change in use, the transition to which is to be controlled by regulations as set forth herein.

33. NON-CONFORMING USE DEFINED. A non-conforming use is a use of a building or premises that does not conform with the regulations of the zone in which it is situated.

34. FRONT YARD DEFINED. A front yard is an open unoccupied space on the same lot with a building, between the building and the front lot line, extending from one side lot line to the other.

35. FRONT YARD DEPTH DEFINED. The depth of the front yard is the mean horizontal distance between the furthest projection of the building plumbed to ground level, and the front lot line, open steps from building not included.

36. REAR YARD DEFINED. A rear yard is an open unoccupied space on the same lot with a building, between the building and the rear lot line extending from one side lot line to the other.

37. SIDE YARD DEFINED. A side yard is an open space on the same lot with a building, between the building and either side of the lot, extending through from the front building line to the rear yard, or to the rear line of the lot where no rear yard is required.

38. SIDE YARD DEPTH DEFINED. The depth of the side yard is the distance from the outside of the eve line of a building to the side property lines.

39. ZONE DEFINED. A zone is a section of the City of Rexburg for which the regulations herein are identical.

40. OTHER DEFINITIONS. Where other definitions are necessary resort may be had to the current issue Uniform Building Code and Building Code or Ordinance of the City of Rexburg. In all cases of doubt or dispute arising under this chapter, the decision of the Building Inspector of the City of Rexburg shall control subject to appeal to the City Council.

41. CLASSIFICATION - USES - USE REGULATIONS. In order to effectuate the purposes of this chapter, the City of Rexburg is hereby divided into five zones,

(1) R 1 Residence Zone
(2) R 2 Residence Zone
(3) R 3 Residence Zone
(4) C Commercial
(5) I Industrial

as shown on the Zoning Map on file in the office of the City Clerk, marked 'Zoning Map, City of Rexburg', and which Zoning Map is by this reference herein incorporated and made a part of this chapter, and zones are hereby created in the City of Rexburg, Idaho, as the same are delineated on said Zoning Map and its amendments.

The City Council is hereby authorized and directed to prepare the aforementioned Zoning Map, which said Zoning Map shall be certified to and declared to be the official Zoning Map of the City of Rexburg, by a certificate of the Mayor and Council of the City of Rexburg endorsed thereon. The original of said Zoning Map shall be filed with the Clerk of the City of Rexburg and shall at all times be available to the public.

Additions to the said Zoning Map may be made to the same by a similar certificate of the Mayor and City Council endorsed thereon. Amendments to said Zoning Map may be made only by the preparation and certification in the manner hereinbefore provided of a new Zoning Map.

No building shall be erected, altered or used, and no premises shall be used for any purposes except in conformity with all the regulations herein presented for the zone in which such building or premises are located.

Where uncertainty exists with respect to the boundary of any zone as shown on the Zoning Map, the following will apply:

(1) Where boundary lines are indicated as following streets and alleys they shall be construed as following the center lines thereof.

(2) Where boundary lines are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

(3) Where a boundary line divides a lot or crosses unsubdivided property, the location of such boundary shall be indicated by dimension as shown on the Zoning Map.

42. NON-CONFORMING BUILDINGS AND USES -- NOT RETROACTIVE IN EFFECT. A non-conforming building may not be constructed or structurally altered during its life to an extent exceeding in aggregate cost of twenty-five per cent (25%) of the assessed value of the building.

A non-conforming use may not be increased in area or volume and no new construction other than repairs to the existing structure or structures, may be made for the utilization of the non-conforming use.

Nothing herein contained shall require any change in plans, construction, or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within sixty days of the date of such permit, and the ground story framework of which, including the second tier beams, shall have been completed within six months of the date of the permit, and the entire exterior of which building shall be completed according to such plans as filed within one year from date of this chapter.

No building damaged by fire or other causes to the extent of more than fifty (50%) of its assessed value shall be repaired or rebuilt except in conformity with the regulations of this chapter.

Whenever a non-conforming use has been discontinued for a period of ninety (90) days, such use shall not thereafter be re-established and any use shall be in conformity with the provisions of this chapter.

A non-conforming use may not be changed to any other use other than that for which it was utilized at the time of adoption of this chapter unless such use is in conformance with the provisions herein applicable to the zone in which it is located.

No non-conforming use shall be extended to displace a conforming use.

Notwithstanding any other provisions of the chapter, the existing use of any building non-conforming with regard to use with an assessed valuation of less than Five Hundred Dollars ($500.00) in any residential or commercial zone at the date of enactment of this chapter shall at the expiration of three years from such date become a prohibited and unlawful use and shall be discontinued.

Whenever the boundaries of a zone shall be changed so as to transfer an area from one zone to another of a different classification, the foregoing provision shall also apply to any non-conforming uses existing therein.

43. ZONE DIVISIONS. In R1 Residence Zone; R2 Residence Zone; R3 Residence Zone; C Commercial, and I Industrial, respectively, now or hereafter established, except as herein provided, no building or structure shall be erected or materially altered nor shall any building or premises be used except in conformance with the restrictions shown on the official Zone Requirements marked Appendix "A" attached hereto and by this reference herein incorporated and made part of this chapter. Said Zone Requirements shall be certified to and declared to be the Official Zone Requirements of the City of Rexburg by a certificate of the Mayor and City Council of the City of Rexburg endorsed thereon. The original of said Zone Requirements shall be filed with the Clerk of the City of Rexburg and shall at all times be available to the public.

Additions and changes to the official Zone Requirements may be made to the same by a similar certificate of the Mayor and City Council endorsed thereon. Amendments to said Zone Requirements may be made by the preparation and certification in the manner herinbefore provided of new Zone Requirements.

44. FRINGE ZONE AREAS. (1) Lots in two zones. Where a zone boundary line as established in this chapter divides a lot which was in single ownership and of record at the time of this ordinance the use thereon and the other zone requirements applying to the least restricted portion of such lot under this chapter shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within twenty (20) feet of said dividing zone boundary line, the use so extended shall be deemed to be conforming.

(2) Lots in business or industrial zones adjacent to residential zone. Where a lot in a commercial zone abuts a lot in a residential zone, there shall be provided along such abutting lines a yard equal in width or depth to that required in the residential zone. Where a lot zoned for commercial

abuts a lot zoned for a residential use, a shrubbery buffer not less than four feet high and four feet thick or a sightly solid fence not less than five feet high, nor more than eight feet high shall be provided and maintained on the commercial property abutting its side yard and/or rear yard line leaving the side and/or rear yard area free and unobstructed, upon the institution of either use which makes them co-existent.

(3) Front yard transition. Where the frontage on one side of a street between two intersecting streets is zoned partly as residential and partly as business, the front yard depth in the commercial zone shall be equal to the required front depth of the residential zone.

(4) Height limitations (See Uniform Building Code).

(5) Garage Entrances. No public or private garage for more than five motor vehicles located in a commercial zone or industrial zone shall have an entrance or exit for motor vehicles within one hundred (100) feet of a residential zone.

(6) Parking lots and driveways abutting residence zone. Whenever a parking lot or driveway to a parking lot is hereafter established in other than a residence zone so as to abut the side or rear line of a lot in a residence zone, a solid masonry wall, or a substantial sightly fence not less than five feet high and not more than eight feet high, shall be constructed and maintained along said side or rear lot line up to, but not beyond, the setback building line. In addition, in all zones, the lighting, including any permitted illuminated sign on any parking lot or driveway shall be arranged so that there will be no annoying glare directed or reflected toward residence buildings or residence zones.

(7) Reversed corner lot abutting residential zone. In the case of a reversed corner lot where the rear of a lot in commercial zone abuts upon the side of a lot in any residential zone, there shall be a rear yard of

not less than the side yard requirements of the abutting residence; provided further, that where a public alley separates the rear of the lot in the commercial zone and the side of the lot in any residential zone, no rear yard shall be required.

(8) Fire zone requirements. The fire zoning requirements and all other zoning requirements, not herein specifically covered, of the zone which the lot, or lots, are being transferred to shall apply to such lots.

45. GENERAL PROVISIONS. (1) Reduction of side yards. Where there is an existing building having front, side or rear yard smaller than is permitted for new buildings under this ordinance, such front, side or rear yard may not be further reduced; nor, where there is an existing building having front, side or rear yard larger than or the same as that required by this ordinance, may such front, side or rear yard be reduced below what is required by this ordinance for a new building of like character. Where the erection of any proposed new building or addition thereto will have the effect of reducing any front, side or rear yard of an existing building below what is required by this ordinance for a new building, permit for such new building shall be denied.

(2) Yard encroachments. Every part of a required yard or court shall be open and unobstructed by any building or structure, from its lowest point upward, except as follows:

(a) Retaining walls, hedges and natural growth, fences and structures used ornamentally or for gardening or private recreation purposes are permitted in side yards to the front property line provided that they are not higher than one-half the distance from such yard encroachment to any adjoining building occupied for residential purposes on the adjacent property or properties, or to the yard line of the adjacent property or properties, whichever is less, to a maximum of eight feet (8').

(3) Outside storage, enclosure required. All junk dealers or other persons accumulating, disposing of or storing junk within the City of Rexburg, when said accumulating, deposit or storing thereof shall be without a building or not within a building, either now stored, deposited or accumulated, or hereafter so deposited, stored or accumulated, shall enclose the lot or place of deposit where said junk is stored with a solid fence surrounding same, at least five and one-half ($5\frac{1}{2}$) feet high, or sufficient to enclose the said junk from public view from the outside of said enclosure. The fence must be kept painted and attractive.

46. OFF-STREET PARKING.

(a) Change in requirements. Whenever there is a change in the number of employees or business visitors or in the lawful use of the premises or in any other unit of measurement specified in any of the foregoing paragraphs of this section, and whenever such change creates a need for an increase or decrease of more than fifteen (15%) per cent of the number of off-street parking spaces as determined by the requirements of this section, more or less off-street facilities shall be provided within a reasonable time on the basis of the adjusted needs, as determined by this section.

(b) Mixed uses. In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this sub-section; parking facilities for one use shall not be considered as providing the required parking facilities for any other use.

(c) Design Standards.

1. Detailed plans of parking facilities shall be submitted to the Building Inspector to insure that there be appropriate means of vehicular access to a street or alley as well as maneuvering areas.

2. Said parking areas shall be properly surfaced, afford adequate drainage and shall have bumper guards where needed.

3. Parking areas shall be used for parking only with no sales, dead storage, repair work, dismantling or servicing of any kind.

4. If lighting is provided, it shall be arranged to reflect away from the residential area; also from any public street or highway.

(d) Parking lots in residential zones. When in its opinion the best interest of the community will be served thereby, the City Council may permit temporarily or permanently the use of land in a residence zone for a parking lot, provided that:

1. The lot is to be used only for the parking of passenger automobiles of employees, customers, or guests of the person or firm controlling and operating the lot, who shall be responsible for its maintenance.

2. No charge is to be made for parking on the lot.

3. The lot is not to be used for sales, repair work, or servicing of any kind.

4. Entrance to and exit from the lot are to be located so as to do the least harm to the residence zone.

5. No advertising sign or material is to be located on the lot.

6. All parking is to be kept back of the setback building line by barrier unless otherwise specifically authorized by the City Council.

7. All lighting is to be arranged so that there will be no glare therefrom annoying to the occupants of adjoining property in a residence zone, and the surface of the parking lot is to be smoothly graded, hard surfaced and adequately drained.

8. Such other conditions as may be deemed necessary by the Board of Adjustment to protect the character of the residential zone.

47. MOBILE HOMES. (a) It shall be unlawful within the limits of the City of Rexburg for any person to park any mobile home, as the same is defined in this chapter, upon any street, alley, or highway or other public place or on any tract of land owned by any person other than the owner of said mobile home occupied or unoccupied for a period in excess of seventy-two (72) hours, within the said City of Rexburg except in a licensed mobile home court.

(b) Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than four hours subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.

(c) The parking of only one unoccupied trailer owned by the owner or tenant of the property upon which located, in any accessory private garage building, or in a rear yard in any zone, is permitted providing no living quarters shall be maintained or any business practiced in said trailer while such trailer is so parked or stored.

48. VISIBILITY AT INTERSECTIONS. On a corner lot in any residential zone, no fence wall, tree, hedge or other structure or planting shall be so placed or maintained as to exist, in whole or in part, at a height greater than 3½ feet above the established grades of the streets within a triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are thirty feet from the point of intersection of the street lines measured along said street lines.

(a) Temporary Structures. No temporary structures will be allowed in any residential zone except construction sheds and store houses utilized for active construction on the site upon which it exists.

(b) Denial of permits. Where it appears to the satisfaction of the permit issuing authority that the erection of any new building will have the

effect of nullifying or evading by any means or device whatsoever any part or provision of this chapter, permit for such new building shall be denied, subject to appeal to the Board of Adjustment by the denied applicant.

49. BOARD OF ADJUSTMENT - MEMBERSHIP - MEETINGS - APPEALS

1. Creation and Membership. The Board of Adjustment is hereby authorized to be established. The word 'Board' when used in this section shall be construed to mean the Board of Adjustment. The said Board shall consist of five (5) members appointed by the Mayor and subject to confirmation of the City Council. Each of said members shall be appointed to hold office for a period of three (3) years and until his successor is appointed and qualified. Any vacancy shall be filled by appointment by the Mayor subject to confirmation by the City Council and shall be for the unexpired term of the retired member. All of the members of said Board shall serve without compensation, and they shall not be subject to removal by either the Mayor or the City Council without cause. The members of said Board may be removed for cause by the Mayor upon written charges and after public hearing.

2. Meetings. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall adopt its own rules of procedure and keep a record of its procedures showing the action of the Board and the vote of each member, upon each question considered, or if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and other official actions, all of which shall be a public record.

3. Appeal. Appeal from the rulings of the Building Inspector concerning the enforcement of the provisions of this chapter may be made to the Board of Adjustment by any person aggrieved or by any officer, department, board or

bureau of the municipality within such time as shall be prescribed by the Board by general rule. The appellant shall file with the Building Inspector and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent 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 officer from whom the appeal is taken and on due cause shown.

The Board 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 a reasonable time. Upon the hearing any party may appear in person or by attorney.

50. JURISDICTION. 1. The Board shall, upon application, review the actions of the Building Inspector in order to determine whether they are in accordance with the provisions of this chapter, and in case of disagreement the decision of the Board shall supersede that of the Building Inspector. The concurring vote of four (4) members of the Board shall be necessary to reverse any order requirement decision or to decide in favor of the applicant or to effect any variations in this chapter.

2. The Board of Adjustment shall have the following powers:

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

(b) To hear and decide special exceptions to the terms of this chapter.

(c) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter shall result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

In exercising the above mentioned powers, such Board may in conformity with the provisions of this chapter reverse or affirm wholly, or partly, or 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 officers from whom the appeal is taken.

3. The Board may from time to time adopt such procedural rules and regulations as it may deem necessary.

51. CHANGES, AMENDMENTS. The zoning regulations, restrictions and boundaries hereinbefore established may from time to time be amended, supplemented, changed, modified, or repealed by the City Council of the City of Rexburg on its own motion or upon the request of the City Planning Board. The City Council shall cause to be prepared a notice indicating the proposed amendments, supplements, changes, modifications or repeal and describing the boundaries of the territory to be affected. Such notice shall state the time and place of a public hearing for consideration of such proposed amendments, supplements, changes, modifications or repeal. Such notice of such public hearing shall be published at least fifteen (15) days prior to the date of said hearing in two weekly issues of the official paper. Such hearing may be adjourned from time to time.

However, in cases of a protest against such change, signed by the owners of twenty per cent (20%) or more either of the area of the lots included in such proposed change, or of those within a three hundred (300) foot radius of the exterior boundaries of such lots included in such change, such amendment

shall not become effective except by the favorable vote of one-half ($\frac{1}{2}$) plus one (1) of the members of the full council of the city. The provisions of the previous section relative to public hearings and official notice shall apply equally to all changes or amendments.

52. VIOLATION - PENALTY - ENFORCEMENT. In violation of this ordinance or any amendment to or other regulations made under authority conferred thereby. the proper local authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

The violation of any provision of this ordinance or any amendment thereof or regulation is hereby declared to be a misdeameanor and any person upon conviction shall be fined not less than $10.00, nor more than $300.00 for each offense and each day that a violation continues shall be construed as a separate offense.

53. VALIDITY OF CHAPTER. All ordinances or parts of ordinances in conflict herewith are hereby repealed, but if any section, paragraph, subdivision, clause or provision of this chapter shall be held invalid such invalidity shall apply only to the section, paragraph, subdivision, clause, or provision so held invalid, and the remainder of this chapter shall be and remain in full force and effect.

54. REPEAL AND SAVING CLAUSE. Ordinance No. 390, entitled "The Zoning Ordinance", as amended by Ordinances Nos. 436, 441, 443, 448, 452, 458, 471, 477, and all other amendments to Ordinance No. 390, of the City of Rexburg, Idaho, which this chapter replaces, is hereby repealed. But this shall not be construed to affect any action taken under or by virtue of the provisions of said Ordinance No. 390 entitled "The Zoning Ordinance" as amended by

Ordinances Nos. 436, 441, 443, 448, 452, 458, 471, 477, and all other amendments to Ordinance No. 390, or of either or any of them while they, or either or any of them, were in force and effect.

This ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council this 3rd day of May, 1968.

APPROVED by the Mayor this 3rd day of May, 1968.

/s/ A.H. Brock

Mayor

ATTEST:

/s/ Beulah Johnson

City Clerk

STATE OF IDAHO, County of Madison.

I, Beulah Johnson, City Clerk of the City of Rexburg, Idaho do hereby certify: That the foregoing is a full, true and correct copy of an ordinance entitled:

AN ORDINANCE TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES, SIZE OF BUILDINGS AND OTHER STRUCTURES; THE PERCENTAGE OF EACH LOT THAT MAY BE OCCUPIED; THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES; THE DENSITY OF POPULATION; THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE OR OTHER PURPOSES; TO DIVIDE THE CITY OF REXBURG INTO DISTRICTS OR ZONES; PROVIDING SPECIAL REGULATIONS FOR EACH DISTRICT OR ZONE; FIXING THE STANDARDS TO WHICH BUILDINGS OR STRUCTURES SHALL CONFORM THEREIN; PROHIBITING USES, BUILDINGS OR STRUCTURES INCOMPATIBLE WITH THE CHARACTER OF THE DISTRICTS OR ZONES RESPECTIVELY; PREVENTING ADDITIONS TO AND ALTERATIONS OR REMODELING OF EXISTING BUILDINGS OR STRUCTURES IN SUCH A WAY AS TO AVOID THE RESTRICTIONS AND LIMITATIONS IMPOSED HEREUNDER; CREATING A BOARD OF ADJUSTMENT; DEFINING CERTAIN TERMS SET FORTH THEREIN; PROVIDING THAT A ZONING

MAP AND OFFICIAL ZONING REQUIREMENTS BE FILED WITH THE CITY CLERK; PROVIDING OFF-STREET PARKING REQUIREMENTS; PROVIDING FOR CHANGES AND AMENDMENTS OF THE ZONING REGULATIONS, RESTRICTIONS AND BOUNDARIES; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS: SETTING FORTH THE MANNER IN WHICH SUCH PROVISIONS SHALL BE ENFORCED BY ANY APPROPRIATE ACTION OR PROCEEDING; REPEALING ORDINANCE NO. 390 ENTITLED "THE ZONING ORDINANCE" AS AMENDED BY ORDINANCES NOS. 436, 441, 443, 448, 452, 458, 471, 477, AND ALL OTHER AMENDMENTS TO ORDINANCE NO. 390," passed by the City Council of said City and approved by the Mayor on the 3rd day of May, 1968.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City of Rexburg, this 3rd day of May, 1968.

/s/ Beulah Johnson

City Clerk

(Seal)

OFFICIAL ZONE REQUIREMENTS R1 ZONE

CLASS 1

PERMITTED USES: Family residences and duplexes, and rooming units and customary accessory residential uses.

Exception to, and Limitations on Permited uses: Public or church owned recreational used and child nurseries must provide 100 square feet of play area per child, screened from view of adjacent properties.

Minimum Floor Area Required: 1000 square feet dwelling unit with a minimum of 800 square feet on the main living floor above grade and 200 square feet elsewhere above grade, plus 100 square feet rooming unit with a minimum of 50 square feet per roomer.

Minimum Lot Area Required: 5500 square feet plus 1500 square feet dwelling unit and/or apartment plus 800 square feet rooming unit.

Minimum Property Frontage: 60 feet.

Minimum Distance Between Buildings: 10 feet.

Minimum Front Yard: 25 feet or even with present established lines.

Minimum Side Yard: 5 feet.

Minimum Rear Yard: 20 feet.

Minimum Street Side Yard Corner Lot: 25 feet or even with present established lines.

Required Yards for Accessory Buildings: 5 feet side, none rear but fireproof if not 5 feet.

OTHER PROVISIONS FOR RESIDENTIAL ZONES: Vacant lots shall be used for gardening, tennis courts, playgrounds, or other recreational facilities only and shall be kept free of all rubbish, weeds, and/or garbage at all times; no animals, except household pets, shall be maintained or housed. Other uses of vacant lots may be permitted by written consent of the Councilman in charge of Public Safety with continuing consent of the owners of 80 per cent of the property within 300 feet of the vacant lot or lots.

Trash shall be provided for in a clean and sanitary condition in containers totally screened in an attractive manner, or buried so as to be out of sight of adjacent properties.

Unoccupied trailers, not exceeding 20 feet in length, or boats may be parked on private property provided they are totally screened in an attractive manner as to be out of sight of adjacent properties or kept under cover in a building that conforms to the residential architecture.

Advertising signs not to exceed 3 feet square attached flat to house or building.

Basement houses shall not be permitted.

REQUIREMENTS AFFECTING ALL ZONES: See as hereinafter set forth.

CLASS 2

PERMITTED USES: All in Class 1 above, plus public educational institutions, churches, libraries, museums, parks, publicly owned recreational uses.

Minimum Property Frontage: 60 feet.

Minimum Distance Between Buildings: 30 feet.

Minimum Front Yard: 35 feet.

Minimum Side Yard: 25 feet.

Minimum Rear Yard: 30 feet.

Minimum Street Side Yard, corner lot: 25 feet, or even with present established lines.

Required Yards for Accessory Buildings: 8 feet side - 10 feet rear.

PERMITTED USES: Hospitals, Rest Homes and Welfare Institutions.

Exceptions to, and Limitations on Permitted Uses: Must provide a minimum lot area of 1/10 acre per bed.

PERMITTED USES: Golf and Country Clubs.

Exceptions to, and Limitations on Permitted Uses: Must provide minimum lot area of 20 acres.

PERMITTED USES: Agriculture and Horticulture.

Exceptions to, and Limitations on Permitted Uses: Use of land only, no buildings.

PERMITTED USES: Customary accessory buildings and uses.

OTHER PROVISIONS FOR RESIDENTIAL ZONES: Same as Class 1 above.

REQUIREMENTS AFFECTING ALL ZONES: See as hereinafter set forth.

R2 ZONE

CLASS 1

PERMITTED USES: All in R1 above, plus multi-dwellings and rooming units.

Exceptions to, and Limitations on Permitted Uses: Same as R1 - Class 1 above.

Minimum Floor Area Required: 800 square feet dwelling unit with a minimum of 800 square feet on the main living floor above grade, plus 100 square feet rooming unit with a minimum of 50 square feet per roomer.

Minimum Lot Area Required: 4500 square feet plus 1500 square feet dwelling unit and/or apartment and/or plus 640 square feet rooming unit.

Minimum Property Frontage: 60 feet.

Minimum Distance Between Buildings: 10 feet.

Minimum Front Yard: 20 feet.

Minimum Side Yard: 5 feet.

Minimum Rear Yard: 20 feet.

Minimum Street Side Road, corner Lot: 20 feet, or even with present established lines.

Required Yards for Accessory Buildings: 5 feet side, none rear if fireproof.

OTHER PROVISIONS FOR RESIDENTIAL ZONES: Same as R1 above.

REQUIREMENTS AFFECTING ALL ZONES: See as hereinafter set forth.

CLASS 2

PERMITTED USES: All in Class 1 above, plus: Philanthropic and Eleemosynary uses.

Exceptions to, and Limitations on Permitted Uses: Same as R1 - Class 2 above.

Minimum Floor Area Required: Same as R2 - Class 1 above.

Minimum Lot Area Required: Same as R2 - Class 1 above.

Minimum Property Frontage: 60 feet.

Minimum Distance Between Buildings: 30 feet.

Minimum Front Yard: 35 feet.

Minimum Side Yard: 25 feet.

Minimum Rear Yard: 30 feet.

Minimum Street Side Yard, corner Lot: 25 feet, or even with present established lines.

Required Yards for accessory Buildings: 8 feet side - 10 feet rear.

OTHER PROVISIONS FOR RESIDENTIAL ZONES: Same as R1 above.

REQUIREMENTS AFFECTING ALL ZONES: See as hereinafter set forth.

R3 ZONE

CLASS 1

PERMITTED USES: All in R1 and R2 above, plus: Tourist Homes and Mobile Homes. No business activities other than customary office business.

Exceptions to, and Limitations on Permitted Uses: Maximum of 5 effiency apartments or 50 per cent of number of apartments, allowed.

Minimum Floor Area Required: 700 square feet dwelling unit with a minimum of 700 square feet on the main living floor above grade, plus 100 square feet rooming unit with a minimum of 50 square feet per roomer.

Minimum Lot Area Required: 4360 square feet plus 640 squa[illegible] dwelling unit, apartment unit and/or rooming unit.

Minimum Property Frontage: Same as R1-Class 1 above.

Minimum Distance Between Buildings: Same as R2 - Class 1 above.

Minimum Front Yard: Same as R2 - Class 1 above.

Minimum Side Yard: Same as R2 - Class 1 above.

Minimum Rear Yard: Same as R2 - Class 1 above.

Minimum Street Side Yard, Corner Lot: Same as R2 - Class 1 above.

Required Yards for Accessory Buildings: Same as R2 - Class 1 above.

OTHER PROVISIONS FOR RESIDENTIAL ZONES: Same as R1 above except basement homes will be permitted.

REQUIREMENTS AFFECTING ALL ZONES: See as hereinafter set forth.

CLASS 2

PERMITTED USES: All in Class 1 above, plus: Apartment Houses, Trailer Court, Motels. No business activities other than customary office business.

Apartments - 3 bedroom - 700 square feet; 2 bedroom - 600 square feet; 1 bedroom - 520 square feet; Efficiency - 385 square feet.

Exceptions to, and Limitations on Permitted Uses: Same as R3 - Class 1 above.

Minimum Floor Area Required: Same as R3-Class 1 above.

Minimum Lot Area Required: Same as R3- Class 2 above.

Minimum Property Frontage: Same as R2 - Class 2 above.

Minimum Distance Between Buildings: Same as R2 - Class 2 above.

Minimum Front Yard: Same as R2 - Class 2 above.

Minimum Side Yard: Same as R2 - Class 2 above.

Minimum Rear Yard: Same as R2 - Class 2 above

Minimum Street Side Yard, Corner Lot: Same as R 2 - Class 2 above.

Required Yards for Accessory Buildings: Same as R2 - Class 2 above.

OTHER PROVISIONS FOR RESIDENTIAL ZONES: Same as R1 above, except basement homes will be permitted.

REQUIREMENTS AFFECTING ALL ZONES: See as hereinafter set forth.

C1 ZONE

CLASS 1

PERMITTED USES: R1, R2 and R3 above, plus apartment houses, restaurants, cafes, bars and clubs, auto sales and service, drug and food stores, professional offices, mortuaries, boarding houses.

Minimum Floor Area Required: Same as R3 above.

Minimum Lot Area Required: Same as R3 above.

PERMITTED USES: Motels.

Exceptions to, and Limitations on Permitted Uses. One attached residence allowed.

PERMITTED USES: Mobile homes.

Exceptions to, and Limitations on Permitted Uses: Same as residence in R3.

PERMITTED USES: Small Industry.

Exceptions to, and Limitations on Permitted Uses. Small industry if not obnoxious or offensive by reason of odor, vapor, dust, gas or noise.

PERMITTED USES: Mobile Homes Court.

Exceptions to, and Limitations on Permitted Uses; Structural additions permitted.

Minimum Floor Area Required: None.

Mobile Homes Courts are subject to Trailer Court Ordinance.

PERMITTED USES: Trailer Court.

Exceptions to, and Limitations on Permitted Uses; Structural additions not permitted.

Minimum Floor Area Required: None.

PERMITTED USES: Motels

Exceptions to, and Limitations on Permitted Uses, One attached residence permitted.

Minimum Floor Area Required: Same as R3 above.

OTHER PROVISIONS FOR COMMERCIAL ZONES. No livestock or poultry or related industries shall be permitted in these zones. A maximum of 40 per cent of the total floor area provided may be in industry or storage use incidental to the primary use.

Curb-cuts shall be allowed for parking lot use only.

Joint use of off-street parking facilities shall be permissible where an attested copy of a contract between the parties concerned setting forth the agreement to such joint use is filed with the application for a building permit. Parking space requirements shall be reduced 10 per cent for each two (2) applications attesting to said contract, however, in no case shall the reduction be more than 20 per cent.

REQUIREMENTS AFFECTING ALL ZONES: See as hereinafter set forth.

CLASS 2

PERMITTED USES: Any use permitted in all other zones. Also, cafes, restaurants, bars and clubs, retail sales.

Exceptions to, and Limitations on Permitted Uses. Central business excluding heavy machinery.

PERMITTED USES: Meeting and lodge halls, auction rooms, amusement places. Auto sales, personal services, offices and financial institutions, schools, transportation, utility and/or communications station, boarding houses, parking lots, advertising signs, customary accessory buildings and uses, apartment houses and hotels.

Minimum Floor Area Required: Same as R3 above.

PERMITTED USES: Residences.

Exceptions to, and Limitations on Permitted Uses: Minimum requirements of R3 above.

PERMITTED USES: Small Industries.

Exceptions to, and Limitations on Permitted Uses. Same as Class 1 above.

OTHER PROVISIONS FOR COMMERCIAL ZONES: Same as Class 1 above.

REQUIREMENTS AFFECTING ALL ZONES: See as hereinafter set forth.

INDUSTRIAL ZONE

ZONE 1

CLASS 1

PERMITTED USES: Any use permitted in all other zones. Also gas storage tanks, coal yards and storage, grain elevators, lumber yards and sawmills.

Exceptions to, and Limitations on Permitted Uses: No building, structure or premises shall be used, or building constructed for a slaughter house, incinerator or reduction of garbage, dead animals, or refuse where conducted as a business for pay or profit.

In general, those uses which have been declared a nuisance in any court of record, or which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas or noise; provided, however, that nothing herein shall be construed to prohibit the erection or maintenance of an industrial use permitted by this section which shall have not more than twenty-five per cent of the floor area devoted to a prohibited use which is clearly and customarily incidental to the primary use.

Minimum Floor Area Required: None.

Minimum Lot Area Required: None.

OTHER PROVISIONS FOR INDUSTRIAL ZONES: Same as C1 - Class 1 above.

REQUIREMENTS AFFECTINS ALL ZONES:

Animals: No animals except household pets shall be maintained or housed in any of the zones.

GARAGES: Garages accessory to single family uses may have a capacity of no more than three (3) cars. Garages accessory to multi-dwellings, apartments, dwelling units, or rooming unit uses may have a capacity of no more than 2 cars per dwelling unit, apartment unit and/or rooming unit located on the premises.

MULTI-DWELLINGS: Each dwelling unit shall not exceed two floors and each dwelling unit in a multi-dwelling shall have a separate entrance from the ground on which the structure is erected. Any structure of two or more dwelling units which does not provide this shall be classified as an apartment house.

MEASUREMENT OF MINIMUM FLOOR AREA: Single family and multi-dwelling residences shall be measured from the outside of walls to the outside of walls, excluding all public and group used spaces. Apartment and rooming units shall be measured from the center line of walls to the center line of walls, excluding all public and group use spaces.

LANDSCAPE AREAS: All yards or portions thereof shall be landscaped or cultivated and shall contain a reasonable number of trees and shrubs. All required landscape areas must be continually maintained in an attractive and clean condition and landscaping must be completed within one year of completion of the building.

HOME OR BUILDINGS MOVED INTO A ZONE: Must conform to the minimum requirements of the zone into which the house is to be moved and must conform in structure and appearance to the surrounding structures so as not to detract from them. A building permit must be secured before a building is moved in.

BUILDINGS WITH SHEET METAL SIDING: Shall not be permitted in any residential zone (except small prefab tool storage sheds no larger than 6 feet x 8 feet or 8 feet high).

LOT EXTENDS INTO TWO DIFFERENT ZONES: Where a lot is located so that it extends into two separate zones, the lot shall conform to the requirements of the most restrictive of the two zones.

OFF-STREET LOADING AREAS: Every hospital, rest home, institution, hotel, commercial warehouse and industrial building hereafter erected or established on a lot shall provide one permanently maintained loading space of not less than ten (10) feet in width and thirty-six (36) feet in length and fourteen (14) feet in clear height. Such loading spaces to be located at the side or rear of the building.

LOCATION OF OFF-STREET PARKING AREAS: No off-street parking areas are to be located in any required front yard and/or corner lot street side yard except on driveway leading to garage. Off-street parking spaces required by this ordinance shall be located on the same lot or premises as the use to be served by such parking areas, excepting those in commercial or industrial zones, or those for apartment use which must be provided within 1000 feet of the use to be served.

OFF-STREET PARKING SPACES REQUIRED: Off-street parking spaces shall be provided in connection with the erection of increase by units or dimension of any building or structure in the following amounts:

1. Single Family Units: 2 per dwelling unit.

2. Multi-dwelling Duplex 3, Triplex 4, and Fourplex 5.

3. Apartment Houses: Spaces equal in number to 125 per cent of the total number of dwelling units, apartment units and/or rooming units located in the premises.

LIMITED COMMERCIAL ZONING IN RESIDENTIAL ZONES: Wherever it becomes necessary or desirable to allow any kind of commercial use such as a small business, office in a home, beauty parlor, doctor's office, or whatever in a residential zone, rather than permanently rezoning this area commercial, limited commercial zoning would allow this commercial use upon the acquisition of a permit from the City Council. The Council would not issue such a permit until written permission of 80 per cent of the property owners within a 300 foot radius of the proposed commercial usage is obtained. Even if the required permission of property owners is obtained the Council may still withhold a permit, if said usage does not seem to be in the interest of the safety, health, and welfare of the area.

If the commercial use for which the permit is issued changes, or ownership of business or property changes, a new permit must be acquired for the new use, following the same procedure as for the original permit.

CERTIFICATE

The undersigned, Mayor and City Council of the City of Rexburg, Madison County, State of Idaho, hereby certify and declare the foregoing Zone Requirements are the Official Zone Requirements of the City of Rexburg, Madison County, Idaho.

Dated this 3rd day of May, 1968.

/s/ A.H. Brock, Mayor

/s/ Henry Shirley

/s/ John C. Porter

/s/ Gordon Smith

/s/ Barton F. Jensen

/s/ Glenn M. Peterson

/s/ Dell Virgin

Councilmen.