



ORDINANCE NO. 390

AN ORDINANCE TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE SIZE OF YARDS AND OTHER SPACES AROUND SUCH BUILDINGS, THE DENSITY OF POPULATION, AND THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND, FOR TRADE, INDUSTRY, RESIDENCE OR OTHER PURPOSES, TO DIVIDE THE CITY OF REXBURG INTO DISTRICTS; PROVIDING SPECIAL REGULATIONS FOR EACH DISTRICT, FIXING THE STANDARDS TO WHICH BUILDINGS OR STRUCTURES SHALL CONFORM THEREIN; PROHIBITING USES, BUILDINGS OR STRUCTURES INCOMPATIBLE WITH THE CHARACTER OF THE DISTRICTS 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, REPEALING SECTION II, ORDINANCE NO. 353 OF THE CITY OF REXBURG CREATING A BOARD OF ADJUSTMENT, PRESCRIBING PENALTIES FOR THE VIOLATIONS OF ITS PROVISIONS, AND THE MANNER IN WHICH SUCH PROVISIONS SHALL BE ENFORCED; DECLARING BUILDINGS, LANDS OR PREMISES IN VIOLATION OF PROVISIONS OF THIS ORDINANCE A COMMON NUISANCE AND PROVIDING FOR THE ABATEMENT OF SUCH COMMON NUISANCE.

BE IT ORDAINED by the City of Rexburg, Idaho:

SECTION I: DISTRICTS

"For the purpose of regulating, classifying and restricting the location of trades, industries and enterprises, and the location of buildings designed, erected or altered for specified uses, and limiting the height and size of such buildings, and the use of lot areas, and regulating and limiting the density of population in the City of Rexburg, and preventing additions to, and alterations or remodel of, existing buildings or structures in such a manner as to avoid the restrictions and limitations in this ordinance contained, the City of Rexburg is hereby divided into five districts termed respectively as follows:

"A" Residence District, "B" Residence District, "C" Commercial District, "D" Industrial District, and "E" Unrestricted District.

The City of Rexburg is hereby divided into five districts aforesaid and the boundaries of such districts are shown on the map and made a part of this ordinance, being designated as the District Map and said map and all the notations, references and other things shown thereon shall be as much a part of this ordinance as if the matters and things set forth by said map were fully described herein.

Except as herein provided, no building shall be erected or structurally altered to exceed in height the limit herein established for the district in which such building is located. No lot area shall be so reduced or diminished that the yard or other open spaces shall be smaller than prescribed by this ordinance nor shall the lot area per family be reduced in any manner except in conformity with the area regulations hereby established for the district in which such building is located. No buildings shall be erected or structurally altered, nor shall any building or premises be used for any purpose other than that permitted in the district in which such building or premises is located.

SECTION II: "A" RESIDENCE DISTRICT

- A. Height: No building shall exceed 40 feet or three stories in height.
- B. Location of building on lot: For the location of the buildings on the lots, the front yard, side yard, etc., see Ordinance No. 358, known as Rexburg Building Code, Section II, as amended. The stipulations therein as to location of building on lot shall apply and this ordinance be considered in conformity therewith.
- C. Rear Yard: There shall be a rear yard having a depth of not less than twenty feet where the rear lot line coincides with an alley line; otherwise the depth shall be not less than one-half of the height of the building.
- D. Lot Area per Family: Every building hereafter erected, structurally altered or maintained, shall provide a lot area of not less than four thousand feet per family.
- E. Buildings Adjoining Alleys: On alleys and side roads, no building is to be placed nearer than one foot to the property line, and for garages or buildings that have doors or openings facing the alley, the building must be at least ten feet from the alley property line.
- F. Use: No building, structure or premises shall be used, and no building or structure shall be erected, structurally altered or maintained, unless otherwise provided in this ordinance, except for one or more of the following uses:
 1. One-family dwellings
 2. Two-family dwellings
 3. Churches and temples
 4. Hospitals
 5. Maternity Homes
 6. Mortuaries
 7. Libraries
 8. Schools and colleges
 9. Parks and Play Grounds
 10. Any public fire station, telephone exchange where no public business office and no repair or storage facilities are maintained, or any necessary public utility buildings.
 11. Accessory buildings incidental to the above uses and located on the same lot (not involving the conduct of a business) including one private garage, or community garage when located not less than 70 feet from the front line of the lot, and which shall provide for not more than one motor vehicle for each 1500 square feet of the total area of the lot, and not more than one of which is a commercial vehicle.
 12. Accessory uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business; and including also, home occupations engaged in by the occupants of a dwelling, not involving the conduct of a retail business on the premises, and including the office of a physician, dentist, musician or artist, when situated in the same dwelling used by such person as his, or her private dwelling; provided that no name plate exceeding eight square feet in area, pertaining to the lease, hire or sale of a building or premises, nor advertising sign or any other character shall be permitted in this district, except that, bulletin boards not exceeding 12 square feet in area may be permitted on premises occupied by churches, temples, libraries, schools, colleges and playgrounds.
 13. Basement hou3es shall not be permitted in "A" Residence District.
 14. No gasoline or oil storage tank shall be permitted, unless it is buried at least one foot underground.
 15. No livestock other than ordinary household pets shall be permitted in "A" Residence District.

SECTION III: "B" RESIDENCE DISTRICT

The conditions and requirements governing the height of buildings, location of buildings on the lots, the front yard, side yard, rear yard and the lot area per family shall be the same as that required in Section II, "A" Residence District.

No building, structure or premises shall be used, and no building or structure shall be erected, structurally altered or maintained, unless otherwise provided in this ordinance except for one or more of the following uses:

1. Any use permitted in the "A" Residence District
2. Multiple dwellings

3. Hotels
4. Private Clubs
5. Boarding and lodging houses
6. Bath HOUSES
7. Nurseries and greenhouses
8. Institutions of a philanthropic nature
9. Small grocery store, by special grant from the City Council
10. Accessory buildings incidental to the above uses, and located on the same lot, and not involving the conduct of a retail business. A private or community garage not having an entrance within sixty feet of the front street line, and in no case, directly off from any street, and which shall provide for not more than one vehicle for each seven hundred square feet of the total lot area, not more than one of which is a commercial vehicle, and where no repair facilities, service station, or other business is maintained, may be deemed an accessory use.
11. Either a public garage or filling station may be established or erected in this district if, when the permit is issued, there is on file with the Building Inspector, the written consent of not less than a two-thirds majority of the owners of all the property within a distance of two hundred feet of the lot upon which the proposed establishment is to be erected; provided, that the real estate occupied by a garage or filling station within the two hundred foot distance shall not count either for or against such consent.

SECTION IV: "C" COMMERCIAL DISTRICT

In the "C" Commercial District:

- a. Height: No restriction as to the height of buildings.
- b. Front Yard: No front yard in this district shall be required for commercial buildings, but for residential buildings the front yard regulations for "A" Residence District shall govern. Where part of the frontage on one side of the street between two intersection streets is located in a "C" Commercial District, the remainder of the frontage being in an "A" or "B" Residence District, the front yard requirements for such "A" or "B" Residence District, respectively, shall govern; provided that on corner lots, such front yard requirements shall not be applied to the frontage on the side street which is not parallel to an alley in the same block.
- c. Rear Yard: No rear yard in this district shall be required for commercial buildings, but, for residential buildings the rear yard regulations for "All Residence District shall govern.
- d. Side Yard: No side yard in this district shall be required for commercial buildings, but for residential buildings, the side yard regulations for "A" Residence District shall govern.
- e. Lot area Per Family: Every building hereafter erected, structurally altered or maintained for residential purposes, shall provide a lot area of not less than 2500 square feet per family.
- f. Use: No building, structure or premises shall be used, and no building or structure shall be erected, structurally altered or maintained, unless otherwise provided in this ordinance, except for one or more of the following uses:
 1. Any use permitted in the "B" Residential District
 2. Business or professional office
 3. Retail stores
 4. Retail trades
 5. Wholesale business
 6. Amusement where wholly within the building
 7. Assembly hall
 8. Automobile repair garage
 9. Automobile storage
 10. Bakery
 11. Bank
 12. Barber Shop
 13. Beauty Parlor
 14. Billboard
 15. Chicken Hatchery
 16. Dry Cleaning and Dyeing
 17. Gasoline or oil retail supply station, including filling stations
 18. Feed store
 19. Food products or preparation, except such uses as are involved in the handling of live animals or fowls to finished products.

20. Water softening plant
21. Laundry
22. Public or rental library
23. Machine shop for small tools, provided total power used is less than 7-1/2 horsepower.
24. General sheet metal working
25. Printing and bookbinding
26. Radio broadcasting station
27. Restaurant
28. Shoe shining or shoe repairing
29. Theatre
30. Light manufacturing in connection with uses herein permitted, provided, that not more than twenty-five per cent of the total floor space of a building or structure in this district is so used.

No business, trade or industry' shall be permitted in any of the "C" Commercial Districts, which is noxious, or offensive by reason of the emission of odor, dust, smoke, gas, vibration or noise, or which imposes an extraordinary hazard to life or property.

SECTION V: "D" INDUSTRIAL DISTRICT

In "D" Industrial District:

- a. Height: No restrictions as to height of buildings.
- b. Front yard, rear yards, side yards and lot area for family shall have the same requirements as those in "C" Commercial Districts.
- c. Use: No building, structure or premises shall be used, and no building or structure shall be erected, structurally altered or maintained, unless otherwise provided in this ordinance, except for one or more of the following uses:
 1. Any use permitted in "C" Commercial District.
 2. Gas storage tanks
 3. Coal yards and storage
 4. Grain Elevators
 5. Lumber yards
 6. Poultry houses, for commercial use.
 7. No building, structure or premises shall be used, or building constructed for slaughter house, incinerator or reduction of garbage, dead animals, or refuse 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.

SECTION VI: "E" UNRESTRICTED DISTRICT

This district shall be comprised of all the property in the City of Rexburg not assigned to Districts "A", "B", "C", and "D".

There shall be no restriction on the height of buildings, nor as to the portions of the lot that may, or may not be occupied by them.

Use: Buildings and premises may be used for any purpose whatsoever, provided that the provisions of the present, or hereafter adopted ordinances of the City of Rexburg, regulating the location or maintenance of nuisances, are complied with; and provided further, that no building or occupancy permit shall be issued for any of the following uses, until, and unless the location of such uses shall have been approved by the City Council.

1. Acid manufacture

2. Distillation of bones, coal or wood
3. Explosive manufacture or storage
4. Fat rendering
5. Fertilizer manufacture
6. Garbage, offal or dead animal reduction
7. Glue manufacture
8. Petroleum refining
9. Smelting of tin, copper, zink or iron ores
10. Stockyards or slaughter of animals
11. Tannery

SECTION VII: NON-CONFORMING USES

a. The lawful use of land, existing at the time of the adoption of this ordinance, although such use does not conform to the provisions hereof, may be continued, but, if such non-conforming use is discontinued for a period of two years, any future use of said premises shall be in conformity with the provisions of this ordinance.

b. The lawful use of a building existing at the time of the adoption of this ordinance may be continued although such use does not conform with the provisions hereof, and such use may be extended throughout the building providing no structural alterations except those required by ordinance, are made therein. If no structural alterations are made, a non-conforming use of buildings may be changed to another non-conforming use of the same or a higher classification.

If a non-conforming use of a building is discontinued for a period of two years, any future use of such structure shall be in conformity with the provisions of this ordinance.

c. When a district shall hereafter be changed, any then existing non-conforming use in such changed district may be continued or changed to any use permitted in the same district, as that in which the existing use is permitted, provided that all other regulations governing the new use are complied with.

d. That this ordinance shall not apply to existing structures, nor to the existing use of any buildings, but shall apply to any alterations of a building to provide for its use for a purpose, or in any manner, different from the use to which it was put before alteration, provided that this ordinance shall not be construed to prevent the restoration of a building damaged not more than fifty per cent of its valuation, by fire, explosion, act of God, or the public enemy, or prevent the continuance of the use of such building, or part thereof, as such use existed at the time of such damage, provided that such restoration shall be begun, and diligently pursued, within one year; nor, shall the same be construed to prevent a change of such existing use under higher classifications as herein provided.

No building which has been damaged as above provided, to the extent of more than fifty per cent of this valuation, shall be rebuilt or repaired, except in conformity with the regulations contained in this ordinance.

e. When the boundary line of any district divides a plot or area in single ownership at the time of the adoption of this ordinance nothing herein shall be construed to prevent the extension of the use existing on either portion of such parcel of land for a distance of not greater than twenty-five feet.

f. The City Council may authorize in a residence district for period of not more than two years from the date of such permit, a temporary building for commerce or industry incidental to the residential development, provided, however, that such permit shall not be renewed.

g. The City Council may grant a permit for the enlargement of an existing building or buildings, or, erection on the same lot or plot of ground, of additional buildings for trade, business or industry located in a district restricted against its use, where such enlargement or expansion of facilities will not be detrimental to or tend to alter, the character of the neighborhood.

h. Any structure vacant the time of the adoption of this ordinance shall be classified, as to use, in accordance with the district in which it is located.

i. It shall be unlawful anywhere within the limits of the City of Rexburg to build, erect, or locate any dwell of less than two rooms or covering less than 400 square feet.

j. Retail shops may be built in the "A" Residence District and in the "B" Residence District if built in residence style, by special permit by the City Council after a public hearing, and a showing that such action will not cause damage and will be in accord with the general purpose of this ordinance and, provided, that before a permit is issued by the City Building Inspector, there shall be on file in the office of the Building Inspector the written consent of the owners of a seventy-five per cent of the area of 311 the property within a radius of 200 feet of any part of the premises upon which such retail shop is to be erected or occupied. Provided, however, that streets and alleys shall not be considered as part of the area herein specified, nor the property occupied by a public school, when such school has, after notice and hearing as herein set forth, failed to object to the location of said building.

SECTION VIII: EXCEPTION TO HEIGHT REGULATIONS

a. This ordinance shall not be deemed to limit or restrict the height of belfries, chimneys, clock towers, cooling towers, elevators, bulkheads, grain elevators, pent houses, stacks, water towers, ornamental towers, wireless towers or any similar appurtenances to buildings, but these structures shall be subject to such restrictions and regulations as may be imposed by other ordinances.

b. Churches, public or semi-public buildings, hospitals, schools, colleges and private clubs may exceed the height restrictions of the district in which they are constructed, provided such structures shall have side yards on both sides, complying with the area regulations of the district, and in addition, the side yards shall be increased one foot in width for each five feet that the height of the building exceeds the height regulations of the district.

c. No fence or wall exceeding four feet in height shall be constructed in an "A" or "B" Residence District on the street sides of lots.

d. No fence or retaining wall of any height shall be constructed outside the lot boundary line.

SECTION IX: EXCEPTION TO AREA REQUIREMENTS

a. Where churches, schools, hospitals or colleges are located in any "A" Residence District or "B" Residence District and have no portion used as a place of habitation, the depth of the rear yard may be reduced to six feet.

b. The front, side and rear yards shall be waived where dwellings are erected above the stores, shops or other commercial uses.

c. No lot area shall at any time be so reduced or diminished that the front, rear, or side yards shall be smaller than prescribed by this ordinance.

d. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, cornices, and ornamental features; provided, that open or lattice-enclosed fire escapes, fire-proof outside stairways and balconies opening into fire towers, projecting into a yard not more than five feet, and the ordinary projection of chimneys and flues, bay or breast windows not over fifteen feet long and projecting not more than eighteen inches, may be permitted by the Building Inspector where the same are so placed as not to obstruct the light or ventilation.

e. If a residential building is to be erected in the rear of an existing or proposed building on an inside lot, there shall be side yards provided the same as if the building were on a separate lot, and there shall be provided a front yard or open space between the rear lot line of the house in front and the rear house, of not less than twenty feet; and no area shall be included twice in providing the yards for the different buildings; and no rear yard need be provided for such rear building.

f. Obstruction to view: On any corner lot in which a front yard is required by this ordinance, no wall, fence or other structure shall be erected, and no hedge, shrub, tree or other growth shall be

maintained in such location between such front yard line and the street line as to cause danger to traffic by obscuring the view.

SECTION X: REPEALING BOARD OF ADJUSTMENT

That Section II of Ordinance No. 353 of the City of Rexburg, Idaho, creating a Board of Adjustment be, and the same is hereby repealed.

SECTION XI: ENFORCEMENT

This ordinance shall be enforced by the Building Inspector or his assistants, subject to such variations and interpretations which may be made by the City Council. Appeal from any decision of the enforcing officer may be made to the City Council as provided in this ordinance.

A certificate of occupancy shall be issued by the enforcing officer, before any building or premises, or part thereof, may hereafter be created, erected, changed, or converted, wholly or in part, in its use of structure, to the effect that such building, and use proposed therefore, conform to the provisions of this ordinance. These certificates shall be applied for and issued at the same time, or before, the Building Inspector grants a building permit for the premises.

Temporary certificates of occupancy may be issued for a period of not exceeding six months, during the completion of any alterations or during a partial occupancy of such buildings. Such temporary certificate shall not be extended, nor shall it, in any way, affect the rights, duties and obligations of the owner or the City, relative to the use or occupancy of the premises covered, or any other matter covered by this ordinance.

SECTION XII: CHANGES IN DISTRICTS

Changes in the boundaries of any district, or part thereof, may be made by the City Council but the following procedure shall be followed: A petition requesting such change shall first be presented to the City Council, duly signed, by the owners of thirty-five per cent or more, either of the area of the lots included within such change or of the lots immediately adjacent in the rear thereof extending 150 feet therefrom, or of the lots directly opposite thereto, extending 105 feet from the street frontage of such opposite lots.

Such petition shall be referred to a committee of three or more selected by the City Council, which shall make careful investigation of such proposed change, and file the report thereon within thirty days after the same has been referred. The City Council shall, thereupon cause notice to be published twice/ in the official newspaper of the City, of the time and place set for the hearing upon such report. The first publication of said notice shall be made not less than fifteen days before the date of such hearing. At such hearing, the City Council shall hear all persons and all objections and recommendations relative to such proposed change, and thereupon action shall be taken upon such ordinance by said City Council, and such action shall be final and conclusive, as to all matters and things involved in said petition; provided, however, in case of a protest against such change signed by the owners of twenty per cent or more, either of the area of the lots included in such proposed changes, or of those immediately adjacent in the rear thereof extending 150 feet therefrom, or, of those directly opposite thereof extending 150 feet from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of three-fourths of all the members of the City Council.

When such proposed amendment has been rejected by the City Council neither it, nor one involving only the same property, shall be offered for adoption within one year after such rejection.

Changes in the regulations and restrictions in any district may be made from time to time by the City Council in the same manner as is prescribed in the preceding paragraph of this section, for making changes in the boundaries except that such action may be initiated without the presentation of a petition requesting it.

SECTION XIII: PROCEDURE IN CASE OF NON-CONFORMITY

If, on any inspection, the condition of a building or premises, or its use or occupancy are found not to conform to the requirements of this ordinance, or the conditions of an existing

BUILDINGS OR STRUCTURES SHALL CONFORM THEREIN; PROHIBITING USES, BUILDINGS OR STRUCTURES INCOMPATIBLE WITH THE CHARACTER OF THE DISTRICTS 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, REPEALING SECTION II, ORDINANCE NO. 353 OF THE CITY OF REXBURG CREATING A BOARD OF ADJUSTMENT, PRESCRIBING PENALTIES FOR THE VIOLATIONS OF ITS PROVISIONS, AND THE MANNER IN WHICH SUCH PROVISIONS SHALL BE ENFORCED; DECLARING BUILDINGS, LANDS OR PREMISES IN VIOLATION OF PROVISIONS OF THIS ORDINANCE A COMMON NUISANCE AND PROVIDING FOR THE ABATEMENT OF SUCH COMMON NUISANCE.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 16th day of March, 1955.

Loretta M. Rigby, City Clerk

(SEAL)

AMENDED BY ORD. 436, 441, 448, 452, 458, 462, 466, 471, 477 REPEALED BY ORD 478