

CITY OF HAVEN KANSAS

ZONING CODE
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ZONES IN ORDER OF CLASSIFICATION

1. "A" - Agriculture and Country Home
2. "B" - Single Family Dwelling
3. "C" - Multiple Family Dwelling
4. "D" - Commercial
5. "E" - Industrial

Zone D is higher Use Classification than Zone E.

Zone C is higher Use Classification than Zone D.

Zone B is higher Use Classification than Zone C.

Zone A is higher Use Classification than Zone B.

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ARTICLE 1

DEFINITIONS

For the purpose of this code, certain terms and words are hereby defined. Words in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure" and the word "shall" is mandatory and not directory.

ACCESSORY BUILDINGS AND USES: A subordinate building or portion of the main building, the use of which is incidental to that of the main building or to the main uses of the premises. An accessory use is one which is incidental to the main use of the premises.

ALLEYS: A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

APARTMENT: A room or suite of rooms in a multiple dwelling or where more than one living unit is established above nonresidential uses, intended or designed for use as a residence by a single family including culinary accommodations.

APARTMENT HOUSE: See Dwelling, Multiple.

BASEMENT: A story having part but not more than one-half its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes other than a janitor employed on the premises.

BOARDINGHOUSE: A building other than a hotel, where, for compensation and by prearrangement for definite periods, meals or lodging and meals, are provided for three or more persons, but not exceeding twenty persons.

BUILDING: Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property.

BUILDING HEIGHT OF: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roof.

CELLAR: A story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

DISTRICT: A section or sections of the City of Haven for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.

DWELLING, SINGLE-FAMILY: A building having accommodations for and occupied exclusively by one family.

DWELLING, TWO-FAMILY: A building having accommodations for and occupied exclusively by two families.

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DWELLING, MULTIPLE: A building having accommodations for and occupied exclusively by more than two families.

FAMILY: One or more persons occupying premises and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodginghouse or hotel as herein defined.

FILLING STATION: Any building or premises used for the dispensing, sale, or offering for sale at retail of any automobile fuels or oils. When the dispensing, sale or offering for sale is incidental to the conduct of a public garage, the premises are classified as a public garage.

FRONTAGE: All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

GARAGE, PRIVATE: An accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

GARAGE, PUBLIC: A building or portion thereof, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.

GARAGE, STORAGE: A building or portion thereof designed or used exclusively for housing four or more motor-driven vehicles.

GRADE:

- (a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.

- (b) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.

- (c) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street. Where no sidewalk exists the grade shall be established by the city engineer.

HOME OCCUPATION: Any occupation or activity carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a name plate not more than one square foot in area, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling, there is no commodity sold upon the premises, except that which is prepared on the premises, no person is employed other than a member of the immediate family residing on the premises; and no mechanical equipment is used except of a type that is similar in character to that normally used for purely domestic or household purposes.

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Home occupation shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman or other professional persons for consultation or emergency treatment, but not for the general practice of his profession.

HOTEL: A building used as abiding place of more than twenty persons who are for compensation lodged with or without meals.

INSTITUTION: A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

LODGINGHOUSE: A building or place where lodging is provided (or which is equipped regularly to provide lodging) by prearrangement for definite periods, for compensation, for three or more persons in contradistinction to hotels open to transients.

LOT: A parcel of land occupied or intended for occupancy by a use permitted in this code, including one main building together with its accessory buildings, the open spaces and parking spaces required by this code, and having its

principal frontage upon a street or upon an officially approved place.

LOT, CORNER: A lot abutting upon two or more streets at their intersection.

LOT, DEPTH OF: The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE: A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

LOT OF RECORD: A lot which is a part of a subdivision, the map of which has been recorded in the office of the register of deeds of Reno County; or a parcel of land, the deed to which was recorded in the office of the register of deeds of Reno County prior to the adoption of this code.

NONCONFORMING USE: Any building or land lawfully occupied by a use at the time of passage of this code of amendment thereto, which does not conform after the passage of this code or amendment thereto with the use regulations of the district in which it is situated.

PARKING SPACE: A surfaced area, enclosed or unenclosed, sufficient in size to store one automobile, together with a surfaced driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

PLACE: An open unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

ROOMING HOUSE: See Lodginghouse.

STREET: All property dedicated or intended for public or private street, highway, freeway or roadway purposes or subject to public or private easement therefor.

STORY: That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF: A space under a sloping roof which has the line of intersection of roof decking, and wall face not more than three feet above the top floor level, and in which space not more than sixty percent of the floor area is finished off for use.

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STREET LINE: A dividing line between a lot, tract or parcel of land and contiguous street.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts and pergolas.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

TRAILER: Any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings and which has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term "trailer" shall include camp car and house car.

YARD: An open space on the same lot with a building, unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the mean horizontal distance between the lot line and the main building shall be used.

YARD, FRONT: A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projection of the usual steps, unenclosed balconies or open porch.

YARD, REAR: A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

YARD, SIDE: A yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard line.

ARTICLE 2

DISTRICTS AND BOUNDARIES

In order to classify, regulate and restrict the location of trades, residences and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit the intensity of the use of the lot area, and to regulate and determine the areas of yards, and other open spaces, within and surrounding such building, the City of Haven, Kansas, is hereby divided into districts, of which there shall be five (5) in number, known as:

- A - Agriculture and Country Home District
- B - Single Family Dwelling District
- C - Multiple Family Dwelling District
- D - Commercial District
- E - Industrial District

The boundaries of the districts are shown upon the map which is attached hereto and made a part of this code, which map is designated as the "district map." The district map and all the notations, references, and other

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information shown thereon and attested by the city clerk are a part of this code and have the same force and effect as if the district map and all the notations, references, and other information shown thereon and attested by the city clerk were fully set forth or described herein, the original of which district map is properly signed by the mayor and attested by the mayor of Haven, with this code. Whenever any street, alley, or other public way is vacated by official action of the governing body of the City of Haven, the zoning district adjoining each side of such street, alley or area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

All territory which may hereafter be annexed to the city of Haven shall be immediately placed and continued in the "B" Single-Family Dwelling District until otherwise changed by ordinance as provided in Section 17 of this code; provided, however, that territory which may hereafter be annexed may be immediately placed in a district other than the "B" Single-Family Dwelling District when such other district classification either is approved by both the city planning commission and the city council prior to such annexation, or is approved by the favorable vote of four-fifths of all members of the city council when disapproved by the city planning commission. All of said approvals shall be by resolution, except as hereinafter provided:

1. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.
2. No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit therein established for the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulation of the district in which the building is located.
4. The minimum yards and other open spaces, including lot area per family, required by this code for each and every building existing at the time of passage of this code or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced beyond the district requirements of this code.
5. Every building hereafter erected, or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot except as otherwise provided in Articles 14 and 15 of this code.

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ARTICLE 3

"A" AGRICULTURE AND COUNTRY HOME DISTRICT

The regulations set forth in this Article or set forth elsewhere in this code when referred to in the Article, are the district regulations in the "A" Agriculture and County Home District.

Except as hereinafter provided, no buildings shall be erected or structurally altered, nor shall any building or premises be used for any other purpose as permitted in the "District" in which the building or premises is located. A building permit is not required for any agricultural building in this district.

1. Use Regulation: Any building or premises shall be used for the following purposes:

(a) Single family dwellings.

(b) Agriculture, horticulture, nurseries-greenhouses, orchards and general farming. An area used for the usual farming operations such as growth of vegetables, fruits, trees, grains and their storage as well as raising the usual farm poultry and farm animals, not including intensive livestock raising such as commercial feed lots, is permitted by the regulations of this district.

2. Height Regulations: Buildings or structures shall not exceed forty-five (45) feet in height.

3. Area Regulations:

(a) Front Yard: There shall be a front yard having a depth of not less than thirty (30) feet.

(b) Side Yard: There shall be a side yard on each side of a building having five (5) feet with fifteen (15) feet between abutting dwellings.

(c) Rear Yard: Except as herein otherwise provided there shall be a rear yard having a depth of not less than thirty (30) feet.

(d) Lot Area Per Family: Every dwelling shall provide a minimum lot area of 2 acres per family, provided that where a lot has less area than herein provided in separate ownership at the time of acceptance of these requirements, this regulation shall not prohibit the erection of a single family dwelling.

(e) Floor area: Every dwelling unit shall have a floor area, exclusive of basements, open or screened porches, land garages, of not less than 800 square feet.

ARTICLE 4

"B" Single-Family Dwelling District

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The regulations set forth in this Article or set forth elsewhere in this code when referred to in this Article, are the district regulations in the "B" Single-Family Dwelling District.

1. Use Regulation: Any building or premises shall be used only for the following purposes:

- (a) Single-Family Dwellings.
- (b) Parks, playgrounds and community buildings owned or operated by a public agency.
- (c) Public libraries.
- (d) Public schools, elementary and high, or private schools having a curriculum equivalent to a public elementary school or public high school and having no rooms regularly used for housing or sleeping purposes.
- (e) Churches, but any church that is on a new site shall provide off-street parking space upon the lot or within two hundred (200) feet thereof, which space is adequate to accommodate one (1) car for every ten (10) persons for which seating is provided in the main auditorium of the church exclusive of the seating capacity of Sunday School and other special rooms.
- (f) Accessory buildings and accessory uses, customarily incident to the above uses (not involving the conduct of a business) including a private garage, the use of a lot or portion thereof for a vegetable or flower garden, but not on a commercial basis for resale or wholesale. An accessory building that is not a part of the main structure shall be located not less than sixty (60) feet from the front lot line. Accessory uses shall also include church or public building, bulletin boards and temporary signs pertaining to the lease, hire or sale of a building or premises, not exceeding ten (10) square feet in area.
- (g) Such other use as the Governing Body of the City of Haven may in its discretion authorize either by a special temporary permit not exceeding one year; or by a special permit for a specific purpose after conducting a public hearing thereon, with due notice thereof by publication in the official city paper at least one week prior thereto.

2. Height Regulation: No building shall exceed two (2) stories nor shall it exceed thirty-five (35) feet in height.

3. Area Regulation: (Also see Page 27, Art. 10 #1)

(a) There shall be a front yard having a depth of not less than thirty (30) feet. Where lots have a double frontage the required front yard shall be provided on both streets. Where a lot is located at the intersection of two or more streets there shall be a front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record at the time of the passage of this code need not be reduced to less than thirty-five (35) feet, except where necessary to provide a yard along the side street with a depth of not less than five (5) feet. No accessory building shall project beyond the front yard line on either street.

(b) There shall be a side yard on each side of a building having a width of not less than six (6) feet, except as may be otherwise provided herein. Wherever a lot of record existing at the time of the passage of the code has a width of fifty (50) feet or less, the side yard on each side of a building may be reduced to a width of not less than 10% of the width of the lot, but in no instance shall it be less than three (3) feet.

(c) Except as herein otherwise provided there shall be a rear yard having a depth of not less than thirty (30) feet; provided further, however, that in those situations in which a corner lot, as platted, is included in the tract of land on which the single-family dwelling or other permissible building is to be located, there shall be a rear yard of not less than six (6) feet in depth.

(d) Every lot or tract of land shall have an area of not less than six thousand (6,000) square feet, except that if a lot or tract has less area or width than herein required and its boundary lines along their entire length touches lands under other ownership on the effective date of this ordinance and have not since been changed, such parcel of land may be used for a single-family dwelling.

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4. Parking Space Regulations:

(a) Every lot or tract of land which is the site of a dwelling unit shall have an off-street parking space of two hundred (200) square feet.

(b) Every church, school building, or other auditorium shall have one parking space for every ten (10) seats, which parking space shall be within one thousand (1,000) feet of said building.

ARTICLE 5

"C" Multiple Dwelling District

The regulations set forth in the Article, or set forth elsewhere in this code when referred to in this Article, are the District regulations in the "C" Multiple Dwelling District.

1. Use Regulations: A building or premises shall be used only for the following purposes: Multiple dwellings; boarding and lodging houses; non-profit religious, educational and philanthropic institutions, but not penal or mental treatment institutions; hospitals, but not animal or mental hospitals; private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is service, customarily carried on as a business; accessory buildings and uses customarily incident to any of the above uses, including storage garages, where the lot is occupied by a multiple dwelling, hospital or institutional building. If a storage garage is not part of the main building it shall be located not less than sixty (60) feet from the front line and not less than five (5) feet from any side street line.

2. Parking Space Regulations: Where a lot is occupied by a two family or multiple dwelling, there shall be provided accessible parking space on the lot adequate to accommodate one car for every dwelling unit provided in the main building.

3. Height Regulations: No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, at the required front, side and rear yard lines.

4. Area Regulations:

(a) Front Yard: The front yard regulations are the same as in the "B" Single-family dwelling district.

(b) Side Yard: The side yard regulations for buildings not exceeding two and one-half (2 1/2) stores in height are the same as those in the "B" Single-family dwelling district.

(c) Rear Yard: The rear yard regulations for buildings not exceeding two and one-half (2 1/2) stories in height are the same as those in the "B" Single-family dwelling district.

5. Intensity of Use: All dwellings hereinafter erected in the "C" Multiple Dwelling District shall be located upon lots containing the following areas: A lot on which there is erected a two family dwelling shall contain an area of not less than 6,000 square feet per family; a lot on which there is erected a multiple dwelling shall contain an area of not less than 3,000 square feet per family for each family on the ground floor, except that this regulation

shall not apply to dormitories or rooming and lodging houses where no cooking is done in individual rooms or apartments; where a lot has less area than herein required and was of record at the time of the passage of this code, that lot may be used only for single-family dwelling purposes, or for any other non-dwelling use permitted in this Article.

ARTICLE 6

"D" Commercial District

The regulations set forth in this Article are the regulations in the "D" Commercial District.

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1. A building or premises shall be used only for the following purposes, unless permitted as hereinafter provided.

- (a) Bank.
- (b) Barber Shop, Beauty Parlor, or similar personal service shops.
- (c) Bicycle, motorcycle, and automobile sales and repair shops.
- (d) Bowling Alley.
- (e) Cleaning Establishments and Laundries, employing not more than five (5) persons on the premises.
- (f) Community parking lots.
- (g) Custom Dressmaking, millinery, tailoring, shoe repairing, household utility articles or similar trade, but not more than five (5) employees shall be engaged on the premises at any one time.
- (h) Filling Stations, garages and equipment repair shops.
- (i) Hospital and Clinic for animals but not open kennels.
- (j) Laundrette.
- (k) Medical and Dental Clinics.
- (l) Nurseries and Greenhouses.
- (m) Office.
- (n) Photographer.
- (o) Restaurant.
- (p) Shop for repair of electrical and radio equipment, and other similar commodities employing not more than five (5) persons on the premises, and not involving the conduct of any manufacturing on the premises.
- (q) Store or shop for the conduct of retail business.
- (r) Theaters.
- (s) Undertaking establishments.
- (t) Accessory buildings and uses customarily incident to the above uses.

Provided, however, that the Governing Body of the City of Haven, Kansas, may upon the recommendation of the City Planning Commission permit uses not specifically enumerated herein, provided said uses permitted by the Governing Body are consistent with the uses specifically enumerated herein, and are not harmful to the general welfare of the surrounding neighborhood.

2. Height Regulations: Any height regulation deemed necessary in this zone shall be for the present determined by the City Planning Commission, having regard to existing conditions.

3. Area Regulations: Area regulation shall likewise be within the judgement of the City Planning Commission having regard to existing conditions; provided, however, that for every lot in said "D" Commercial District there shall be a setback as determined by the Planning Commission from every street.

4. Parking Space Regulations:

(a) Hospitals, clinics, doctors' offices and welfare institutions, shall have one parking space for five hundred (500) square feet of gross floor area.

(b) Business and Commercial buildings with a gross floor area of twenty-five hundred (2,500) square feet which shall have one parking space for every five hundred (500) square feet of gross floor area exclusive of area in stairway, elevator shafts or automobile parking space.

(c) Buildings used for purposes other than retail selling shall have one parking space for every two persons employed therein, unless additional parking spaces are required because of gross floor area.

5. Residential Uses:

No residential uses shall be permitted in this Zoning District except by Special Permit as described in Article 9.

ARTICLE 7

"E" Industrial District

The regulations set forth in this Article are the regulation of the "E" Industrial District.

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1. Use Regulation: Any building or premises may be used for any industrial purpose not in conflict with any code of the City of Haven or the laws of the State of Kansas, and which do not in any way constitute a nuisance, hazard or inconvenience to the public; except that the following uses shall not be permitted.

- (a) Acid manufacture.
- (b) Alcohol manufacturing.
- (c) Ammonia, bleaching, powder and chlorine manufacturing or storage.
- (d) Animal glue sizing or gelatin manufacturing.
- (e) Asphalt manufacturing.
- (f) Blast furnaces and boiler works.
- (g) Brick or tile manufacturing.
- (h) Cement, lime, gypsum or plaster of paris.
- (i) Disinfectant manufacturing.
- (j) Distillation of bones.
- (k) Explosives manufacture or storage.
- (l) Fat rendering.

- (m) Fertilizer manufacture.
- (n) Forge plants.
- (o) Garbage, dead animal, reduction or dumping.
- (p) Gas manufacture.
- (q) Junk, iron, or rag storage or manufacturing.
- (r) Glue manufacture.
- (s) Metal smelting or foundry.
- (t) Open storage yards of salvage or junk material.
- (u) Petroleum or petroleum product refining or wholesale storage.
- (v) Stockyards or slaughter of animals or poultry.
- (w) Tanning, storage or curing of skins.
- (x) Manufacturing or storage of items of an explosive or of an inflammable nature or which have an offensive odor, and in general those uses, which may be obnoxious or offensive by reason of odor, dust, smoke or noise.
- (y) Wholesale storage of gasoline.
- (z) Wholesale storage of liquified petroleum gases.

Provided, however, that persons desiring to use land or erect buildings shall first submit a plan to the Governing Body of the City of Haven, Kansas showing in detail the manner in which the land is to be used, the location, size, character and appearance of buildings, and provisions, if any, for off-street parking, service areas and landscaping. The Governing Body of the City of Haven, Kansas shall refer such plan to the City Planning Commission, which commission shall be given 60 days in which to make a report stating whether or not

- (1) The plan complies with the regulations of this code,
- (2) The plan is in the best interest of the City,
- (3) Adjacent property values will not be adversely affected,
- (4) And the plan is consistent with the public interest and purposes of this code.

No action shall be taken upon which such plan by the Governing Body of the City of Haven, Kansas until and unless the report of the City Planning Commission has been filed; provided, however, that if no report is received from the Planning Commission within 60 days, it shall be assumed that the approval of the Plan has been filed by the said Planning Commission. After such report of the Planning Commission has been filed, the Governing Body of the City of Haven, Kansas, after public hearing, may approve such a plan by resolution, and building and occupancy permits may be issued to carry out the approved plan; provided, however, that if the City Planning Commission recommends against such plan, the resolution approving such plan shall not become effective except by the favorable vote of four-fifths (4//5) of all the members of the Governing Body of the City of Haven, Kansas. Buildings or land may be used only in accordance with the plans approved as above provided, and

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may be amended only by the same procedure by which they were approved. Approved plans shall be completed within a period of not more than one year, unless a greater period of time of completion of the plans is stated in the resolution or approval.

2. Parking Space Regulations: Industrial buildings with a gross floor area of twenty-five hundred (2,500) square feet or more with more than five (5) employees, shall have one (1) parking space for every two (2) employees.

3. Area Regulations: There shall be a front yard having a depth of not less than thirty (30) feet along with side and rear yard setbacks of not less than fifteen (15) feet for every tract in the "E" Industrial District.

4. Residential Uses: No residential uses shall be permitted in this Zoning District except by Special Permit as described in Article 9.

ARTICLE 8

Non-Conforming Uses

(ITEM 1. REPEALED WITH ORDINANCE #450, 1-19-87)

1. The lawful use of land for storage purposes and for advertising signs and bulletin boards, which does not conform to the provisions of this code, shall be discontinued within five (5) years from the date of the approval of this code, and the use of land for storage purposes and advertising signs and bulletin boards which becomes nonconforming by reason of a subsequent change in this code, shall, also be discontinued within five (5) years from the date of the change.

2. The lawful use of a building existing at the time of the effective date of this code may be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of building may be changed to another non-conforming use of the same or of a higher classification (see Definitions). Whenever a non-conforming use has been changed to a higher classification or to a more conforming use, such use shall not be changed to a lower classification. No increase in facilities or expansion of non-conforming operations shall be allowed except as provided in Article 9 of this code.

3. Whenever the use of a building becomes a non-conforming use through a change in the zoning code or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another non-conforming use of the same or of a higher classification.

4. In the event that a non-conforming use of any building or premises is discontinued, or its normal operation stopped for a period of two (2) years, the use of the same shall thereafter conform to the use permitted in the district in which it is located.

5. No existing building devoted to a non-conforming use, except when required to do so by law or order, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a conforming use, or unless a Special Permit is granted as provided in Article 9 of this code.

6. When a building, the use of which does not conform to the provisions of this code, is damaged by fire, explosion, Act of God, or the public enemy, to the extent of more than sixty (60) percent of its fair market value, it shall not be restored except in conformity with the district regulations of the district in which the building is situated.

ARTICLE 9

Additional Use Regulations

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The Governing Body of the City of Haven may, by special permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this code, and may also permit an increase in the height of such buildings.

1. Any public building erected or used by any department of the City, County, State or Federal Government.
2. Private schools, including nursery, pre-kindergarten, kindergarten, play and special schools.
3. Hospitals and institutions, including education, religious and philanthropic institutions; provided, however, that such buildings occupy not over forty percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than two feet for each foot of building height, and that adequate off-street parking space will be provided.
4. Cemetery.
5. Community building or recreation field.
6. Airport or landing field.
7. Greenhouses and nurseries, including floral, garden and gift shops customarily operated in conjunction with greenhouses and nurseries providing no displays of products other than nursery stock be allowed outside the building, except in District "A."
8. Trailer courts and tourist camps, but only in the "C", "D", and "E" Districts.
9. Riding stables.
10. Roadside stands and recreational activities for temporary or seasonal periods.
11. Radio towers and broadcasting stations.
12. Extraction and storage of sand, gravel, dirt or other raw materials.
13. Parking lots on land not more than three hundred feet from the boundary of a "C", "D", or "E" district; provided that:
 - a. No parking spaces shall be provided or maintained in the required front yard for the district where located;
 - b. The parking area is used for passenger vehicles only, and in no case for sales, repair work, storage, dismantling, or servicing of any vehicles, equipment materials or supplies;
 - c. No signs or advertising of any character shall be allowed except for traffic directional signs painted on the pavement;
 - d. A permanent brick or masonry wall or ornamental fence or hedge (as determined by the governing body) not less than four feet nor more than six feet high is provided along all front yard lines and along all side or rear lot lines where such lines adjoin property used for other than commercial or industrial purposes;
 - e. The parking area and connecting driveways are surfaces with concrete, asphaltic concrete, asphalt or any other type of permanent, dust free paving, and the parking area and the connecting driveways are maintained in good condition and free of all weeds, dust, trash and other debris; provided, however, that the governing body may waive this requirement with respect to any parking area abutting upon any unpaved street or alley, but may require the said parking area to be surfaced as provided above whenever the abutting unpaved street or alley is paved.
 - f. If lighting facilities are provided, they shall be arranged so as to reflect or direct light away from the adjacent residential district.
 - g. Required front yards shall be landscaped and maintained in good condition and free of all weeds, trash and other debris.
14. Signs on publicly owned land, provided that a plan showing in detail the size, location, colors, lighting and materials of such signs shall have been submitted to and approved by the City Planning Commission.
15. Clubs, Lodges, and semi-public buildings.
16. Museums, provided that:
 - a. A plan showing in detail the manner in which the land is to be used, the location, size, character and appearance of buildings and provisions for off-street parking service areas and landscaping shall have been submitted to and approved by the City Planning Commission, and
 - b. No goods, ware or merchandise other than souvenirs and items ordinarily sold in museums shall be prepared or sold on the premises.
17. Rental of trailers, provided that:

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- a. Such trailers are used for hauling purposes and not for living, sleeping or storage purposes.
- b. A permanent brick or masonry wall or ornamental fence of hedge (as determined by the governing body) not less than four feet nor more than six feet high is provided along all front yard lines and along all side or rear lot lines where such lines adjoin property used for other than commercial or industrial purposes.

18. Drive-in theaters.

19. Automobile sales, service, rental (new and used), provided, however, that a plan showing in detail the manner in which the land is to be used, the location, size, character and appearance of buildings, the provisions for building setbacks, off-street parking, service areas, screening, landscaping, signs and lighting has been submitted to the City Planning Commission and a recommendation has been forwarded from them to the City Council.

20. Multiple-family dwellings for elderly and/or handicapped persons in "C" district with the following required Parking, Height, area and Intensity Use regulations:

- a. Parking Regulations: At least one half (1/2) space for each dwelling unit.
- b. Height Regulations: No building shall exceed eight-five (85) feet in height.
- c. Area Regulations:
 1. Front Yard: Thirty (30) feet on all sides abutting a street.
 2. Side Yard: Fifteen (15) feet except there shall be an additional side yard setback of one (1) foot for each two (2) feet of building height over fifty (50) feet.
 3. Rear Yard: Twenty-five (25) feet.
 4. Intensity of Use: Minimum lot area shall be five hundred (500 square feet per dwelling unit.

21. Storage Garages.

a. Storage garages which are designed and used exclusively for the storage of furniture, household goods, motor vehicles, recreational vehicles, boats, trailers, campers and camper tops, and related accessories, on land zoned "C" Multi-Family; provided that no property held for resale or used primarily in the conduct of a business or commercial enterprise shall be stored therein; and provided further, that:

1. A plan is submitted, showing in detail the manner in which the land is proposed to be used and the location, size, character and appearance of buildings and screening proposed to be erected;
2. Lighting shall be directed away from any surrounding residential districts;
3. Driveway approaches and driveways are surfaced with concrete, asphaltic concrete, asphalt, or other dust free surface.
4. One sign only, not exceeding five (5) square feet, shall be permitted; Rear Yard--Twenty-five (25) feet; Side Yard--fifteen (15) feet;
6. Lot coverage by the storage garage or garages shall not exceed seventy percent (70%) and
7. Any special use permit issued pursuant to this paragraph 21 shall be revoked if storage of commercial or industrial property or equipment is commenced.

b. No special use shall be permitted pursuant to this paragraph 21 unless the Planning Commission and the Governing Body finds:

1. That the proposed use is compatible with that of surrounding properties;
2. That adequate buffering or screening is provided for;
3. That ingress and egress to the property and to improvements to be constructed upon the property is adequate; and
4. That the nature and intensity of the use proposed to be made of the property complies with the provisions of subparagraph (a) hereof.

Special permits granted hereunder shall be valid only so long as the applicable provisions of said Special Permit are complied with, and such special permits may be revoked by the Governing Body at any time without notice in the event of noncompliance with any of said provisions.

Special permits granted hereunder may provide that the use for which the permit is granted shall be commenced within a certain specified time and/or that the permit shall expire and the use terminate at a certain specified date.

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Before issuance of any special permit of any of the above buildings or uses, the Governing Body shall refer the proposed application to the City Planning Commission which commission shall be given thirty days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities or other matters pertaining to the public health, public safety and general welfare. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the City Planning Commission has been filed; provided, however, that if no report is received from the Planning Commission within forty-five (45) days, it shall be assumed that approval of the application has been given by said Commission.

ARTICLE 10

Additional Height and Area Regulations

The district regulations hereinafter set forth in this Article qualify or supplement, as the case may be, the district regulations appearing elsewhere in this code.

Public, semi-public or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding sixty feet, and churches and temples may be erected to a height not exceeding seventy-five feet if the building is set back from each yard line at least one foot for each two feet of additional building height above the height limit otherwise provided in the district in which the building is located.

Chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks water towers, ornamental towers, and spires, church steeples, wireless towers or necessary mechanical appurtenances, may be erected to a height in accordance with existing or hereafter adopted ordinances of the City of Haven, Kansas.

Accessory buildings may be built in a rear yard but such accessory buildings shall not be nearer than two feet to any side or rear lot line, except that when a garage is entered from an alley it shall not be located closer than ten feet to the alley line.

No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.

Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and except for the ordinary projections of sills, belt courses, cornices, and ornamental features projecting not to exceed twelve inches.

Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the building inspector for a distance of not more than three and one-half feet and where the same are so placed as not to obstruct light and ventilation.

An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten feet.

Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet above the floor level of the ground (first) story may project into a required yard, provided these projections be distant at least two feet from the adjacent side lot line.

For the purpose of the side yard regulations, a two-family dwelling, or a multiple-dwelling, shall be considered as one building occupying one lot.

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Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but such temporary building shall be removed upon completion of the construction work.

Where a lot or tract is used for a nonresidential purpose, more than one main building may be located upon the lot or tract but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

No side yards are required where dwelling units are erected above commercial and industrial structures.

Whenever the number of employees is restricted in connection with any use in the neighborhood shopping or commercial districts, such maximum number applies only to employees engaged in processing or treating materials or products on the premises and not to employees engaged in selling, clerical, delivery or similar activities.

Buildings that are to be used for storage purposes only may exceed the maximum number of stories that are permitted in the district in which they are located, but such buildings shall not exceed the number of feet of building height permitted in such districts.

The front yards heretofore established shall be adjusted in the following cases:

1. Where forty percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed (with a variation of five feet or less) a front yard greater in depth than herein required, the new buildings shall not be erected closer to the street than the front yard so established by the existing buildings.

2. Where forth percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have not observed a front yard as described above, then:

- a. Where a building is to be erected on a parcel of land that is within one hundred feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings on the two sides, or

- b. Where a building is to be erected on a parcel of land that is within one hundred feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

3. Where a building cannot be erected as close to the street as is allowed by the district regulations because of the provisions of paragraphs 1 and 2 above, the City Council, upon petition signed by at least one property owner in the block affected and after report upon the same by the City Planning Commission, may establish a front yard line for the block affected as close to the street as allowed by the district regulations for that block.

Except as otherwise specifically provided for the City of Haven, Kansas, the following regulations shall apply to the construction of fences:

1. No fence of a height greater than three feet, except wire fences and other fences in which the openings between the materials of which the fence is constructed represent more than seventy percent of the total fence area, shall be constructed closer to the street than the front building line established for the district in which such fence is to be erected.

2. No fence shall be constructed which will constitute a traffic hazard and no permit shall be granted for the construction of a fence unless the city building inspector has certified such design as to be hazardous or dangerous to persons or animals.

4. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunshine or hindering ventilation or which fence shall adversely affect the public health, safety and welfare.

5. No fence except fences constructed upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six and one-half feet, provided, however, that the governing body of the City of Haven, Kansas may, by special permit, authorize the

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construction of a fence higher than six and one-half feet if the construction thereof has been recommended and approved by the City Planning Commission.

6. All fences shall conform to the provisions of the building code of the City of Haven, Kansas.

7. When, in his judgment, the public health, safety and welfare will be substantially served and the adjacent property will not be damaged, the building inspector may, at his discretion, vary the requirements with respect to the construction of fences as provided for herein.

ARTICLE 11

Community Unit Plan

The owner or owners of any tract of land comprising an area of not less than ten acres may submit to the City Council of the City of Haven a plan for the use and development of all of the tract of land for residential purposes or for the repair and alteration of any existing housing development on an area comprising ten acres or more. The development or alteration plan shall be referred to the city planning commission for study and report. If the city planning commission approves the plans, they shall then be submitted to the City Council for consideration, public hearing and approval. The approval and recommendations of the city planning commission shall be accompanied by a report stating the reasons for approval of the application and specific plan meets the following conditions:

1. That property adjacent to the area included in the plan will not be adversely affected.
2. That the plan is consistent with the intent and purpose of this code to promote public health, safety, morals and general welfare.
3. That the buildings shall be used only for single-family dwellings, two-family or multiple dwellings and the usual accessory uses, such as garages, storage space or community activities, including churches.
4. That the average lot area per family contained in the site will be not less than the lot area per family required in the district in which the development is located, and
5. That the buildings do not exceed the height regulations of the district in which the development is located.

If the City Council approves the plans, building permits and certificates of occupancy may be issued even though the use of land and the location of the buildings to be erected in the area and the yards and open spaces contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located.

ARTICLE 12

Board of Zoning Appeals

Board of zoning appeals; membership, appointment, terms, vacancies, officers; rules, records, fees.

The governing body of the City of Haven, Kansas which has enacted a zoning code shall by code create a board of zoning appeals. Such board shall consist of not less than three (3) nor more than seven (7) members, all of whom shall be residents of the city, to be appointed by the mayor by and with the consent of the city council. None of the members shall hold any other public office of the city except that one member may be a member of the planning commission. The members first appointed shall serve respectively for terms of one, two and three years, divided equally or as nearly equally as possible between the members. Thereafter the governing body of the City of Haven may by code change the terms of said members to either three (3) or four (4) years, whichever is deemed to be in the best interest of the city. Vacancies shall be filled by appointment for the unexpired term. The members of such board shall serve without compensation. The board shall annually elect one (1) of its members as chairman and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decision of the board and the vote upon each question. Records of all official actions of the board

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shall be filed in its office and shall be a public record. The governing body of the city may in the code creating such board shall collect a fee of fifty (\$50.00) dollars to be paid in advance by the party appealing.

Powers and duties of board; hearings, appeals; variances and exceptions.

The board of zoning appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning ordinance as hereinafter provided. The board shall fix a reasonable time for the hearing of an appeal of any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official city newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of said notice shall be mailed to each party to the appeal and to the city planning commission.

Appeals to the board may be taken by any person aggrieved, or by any officer of the city or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning code. Such appeal shall be taken within a reasonable time as provided by the rules of the board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore. The officer from whom the appeal is taken, when notified by the board or its agent, shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning code. The board may also, when it shall deem the same necessary, grant variances and exceptions to the zoning code on the basis and in the manner hereinafter provided:

(a) Variances. To authorize in specific cases a variance from the specific terms of the code which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the code will, in an individual case, result in unnecessary hardship, and provided that the spirit of the code shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning code in such district. A request for a variance may be granted in such case, upon a finding by the board that all of the following conditions have been met:

1. That the variance requested arises from such condition which is unique to the property in question and which is not created by an action or actions of the property owner or the applicant;
2. That the granting of a permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. That the strict application of the provisions of the zoning code of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of the zoning code.

(b) Exceptions. To grant exceptions to the provisions of zoning code in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning code. In no event shall exceptions to the provisions of the zoning code be granted where the use or exception contemplated is not specifically listed as an exception in the zoning code. Further, under no conditions shall the board of zoning appeals have the power to grant an exception when conditions of this exception, as established in the zoning code by the governing body, are not found to be present. In exercising the foregoing powers, the board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of said board may bring an action in the district court of the county in which such city is located to determine the reasonableness of any such order or determination.

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ARTICLE 13

Occupancy Permits

Subsequent to the effective date of this code, no change in the use or occupancy in an existing building other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied until a certificate of occupancy has been issued by the building inspector. Every certificate of occupancy shall state that the new occupancy complies with all provisions of this code.

No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made and approved for a certificate of occupancy and compliance, and no building or premises shall be occupied until such certificate and permit is issued.

A record of all certificates of occupancy shall be kept on file in the office of the building inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or a building affected by such certificate of occupancy.

ARTICLE 14

Plats

Each application for a building permit shall be accompanied by a plat in duplicate, drawn to scale showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this ordinance. A record of applications and plat shall be kept in the office of the building inspector.

ARTICLE 15

Rules Where Uncertainties May Arise Concerning Boundaries and Districts

Where uncertainty exists with respect to the boundaries of the various districts as shown on the district map accompanying and made a part of this code, the following rules apply:

1. The district boundaries are either streets or alleys unless otherwise shown, and where the districts designated are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.

2. Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the district map accompanying and made a part of this code are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

3. In unsubdivided property, the district boundary lines on the map accompanying and made a part of this code shall be determined by use of the scale appearing on the map.

ARTICLE 16

Amendments

Any party desiring any change in zoning district boundaries as to any lot, tract or area of land shall file with the city clerk an application upon forms provided by the city, and such application shall be accompanied by such data and information as may be prescribed by the city planning commission. At the time of filing said application with the city clerk, the applicant shall provide the city clerk with the names and addresses of all owners, residing in, or having an office in, Reno County, Kansas, of any land located within the limits of the area as to which change is requested and within 200 feet of the outer limits of said area as to which the applicant desires change of zoning.

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For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon the filing of the application, shall pay to the city a fee in the amount of fifty (\$50.00) dollars.

Promptly upon the filing of any such application, the city clerk shall refer the application to the city planning commission for study and recommendation and shall report to the governing body concerning the nature of the application and the fact of its referral to the city planning commission.

Before the city planning commission shall by proper action, formulate its recommendation to the governing body on any such proposed or requested change of zoning district boundary, whether initiated by the governing body or by others, the city planning commission shall hold a public hearing on such proposal and such hearing shall be held only after notice of the hearing has been given as follows:

1. One notice published as a legal notice in the official newspaper of the City of Haven, Kansas, said publication notice to be at least 20 days prior to the date set for said hearing.

2. A copy of said published notice mailed by first class mail, within seven days after publication of said notice, to all owners, whose addresses with reasonable diligence can be ascertained, residing in, or having an office in, Reno County, Kansas, of land located within two hundred feet of the outer limits of the area to which such proposal pertains, said list of said owners to be determined by the records in the office of the register of deeds as of 8:00 o'clock A.M. on the date on which said application is filed with the city clerk.

3. By posting of at least one sign of at least nine square feet in area in a conspicuous place on the property, or adjacent parking, to which the proposed pertains, at least ten days prior to the date set for said hearing, said sign to have a white background and black letters at least three inches high giving notice of said hearing and which sign or signs shall remain on said property until after the date set for said hearing.

4. Provided, however, that in the event of a hearing upon any proposed adoption of a new basic zoning code changing zoning district regulations, requirements and/or general provisions, but not changing zoning district boundaries, the only notice required shall be the notice published in the official newspaper as required by sub-paragraph "1" of this Article.

5. In the event that a protest against such amendment, supplement or change be filed in the office of the city clerk within fourteen days after said public hearing, duly signed and acknowledged by the owners of twenty per cent or more of any land located within two hundred feet of the area proposed to be altered, then in such event such amendment shall not be passed except by at least four-fifths' vote of the governing body of the city.

REF: Ordinance #440 March 4, 1985 (Data4\440)
Ordinance #450 January 19, 1987 (Data4\450)
Ordinance #484A-Manufactured Housing (Data4\484A)