

ZONING REGULATIONS

City of Concordia, Kansas

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AMENDMENTS

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ARTICLE 1

TITLE AND PURPOSE

Sections:

- 1-1 Title**
- 1-2 Purpose and Intent**
- 1-3 Consistency with Comprehensive Plan**
- 1-4 Jurisdiction**
- 1-5 Zoning Administrator; Powers and duties**

SECTION 1-1 TITLE

1-101. These regulations, including the zoning district maps incorporated herein, shall be known and cited as the “Zoning Regulations for the City of Concordia, Kansas.”

SECTION 1-2 PURPOSE AND INTENT

1-102. These zoning regulations, adopted pursuant to Kansas law are enacted for the purpose and intent of:

1. Promoting and serving the public health, safety, morals, comfort, and general welfare of the citizens of the City of Concordia.
2. Obtaining the objectives of the comprehensive plan.
3. Preserving and protecting property values.
4. Lessening congestion on the streets.
5. Preventing overcrowding of land.
6. Regulating and restricting location and use of buildings and land.
7. To create a variety of zoning districts sensitive to the peculiarities of the various permitted uses and designed to protect and enhance the values inherent in each zone.
8. Regulating and restricting the height, number of stories, and size of buildings; the percentage of lots that may be occupied by buildings and other structures; size of yards, courts, and other open spaces.

9. Avoiding the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.
10. Providing adequate notice on subsequent changes to these regulations and an opportunity for interested parties to be heard.
11. Facilitating the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas and the adopted comprehensive plan for the City of Concordia.
12. Promoting the achievement of the Future Land Use Plan for the City of Concordia.
13. Informing the public regarding future development in the City of Concordia thereby providing a basis for wise decisions with respect to such development.

SECTION 1-3 CONSISTENCY WITH COMPREHENSIVE PLAN

1-103. It is the intent that these zoning regulations shall be consistent with the comprehensive plan and with supplemental land use and community development policies of the Planning Commission and the City Commission.

SECTION 1-4 JURISDICTION

1-104. The jurisdiction of these zoning regulations shall apply to all land located within the corporate limits of the City of Concordia, Kansas. Unless expressly provided for otherwise, these regulations shall apply to property owned by the City of Concordia.

SECTION 1-5 ZONING ADMINISTRATOR; POWERS AND DUTIES.

1-501

- (a) The Zoning Administrator is the City's officer responsible for carrying out the duties and responsibilities of administering the City's zoning and subdivision regulations. In general the Zoning Administrator shall inspect structures and uses of land to determine compliance with the provisions of such regulations and any application made pursuant to those regulations.
- (b) The Zoning Administrator shall:

1. Compile and maintain the official text of the City's zoning and subdivision regulations and the zoning maps and any amendments thereto.
2. Receive, file, review, make recommendations on, and forward for action all applications for, and appeals of, rezonings, conditional use permits, subdivision plats and variances. The Zoning Administrator shall have such authority as is necessary to request and acquire from an applicant or appellant information needed for the processing of such applications and appeals, including land surveys.
3. Maintain zoning and subdivision administration records.
4. Issue permits and review permit applications made pursuant to the City's zoning and subdivision regulations.
5. Approve or disapprove requests for administrative variances in accordance with Article 26 of these Regulations.
6. Provide such technical and secretarial assistance as is required by the Planning Commission, Board of Zoning Appeals and City Commission and other boards and commissions in the exercise of their duties relating to these regulations.
7. Advise the Planning Commission and the City Commission on the adequacy of the comprehensive plan and zoning and subdivision regulations, and at least annually make recommendations to the Planning Commission concerning the same.
8. Ensure that public notice is provided for proceedings related to applications made pursuant to these regulations.
9. Advise the City Attorney of possible violations of these regulations.

ARTICLE 2

RULES, INTERPRETATIONS AND DEFINITIONS

Sections:

- 2-1 Rules and Interpretations
- 2-2 Seperability
- 2-3 Definitions

SECTION 2-1 RULES AND INTERPRETATIONS

2-101.

a. Rules.

1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
 - (a) Words used in the present tense shall include the future.
 - (b) Words in the singular number include the plural number, and words in the plural number include the singular number.
 - (c) The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
 - (d) The word "shall" is mandatory.
 - (e) The word "may" is permissive.
 - (f) The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
 - (g) Unless otherwise specified, all distances shall be measured horizontally.
 - (h) The abbreviation "N/A" means not applicable.
2. Any word or phrase which is defined in this article or elsewhere in these

regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

b. Interpretation.

1. **Minimum requirements.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, morals and welfare.
2. **Overlapping or contradictory regulations.** Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or of any other law, rule or regulation of any kind, the regulations which are more restrictive shall govern unless otherwise excepted.
3. **Private agreements.** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.
4. **Unlawful structures and uses.** No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.

SECTION 2-2 SEPERABILITY

2-201. It is hereby declared to be the intention of the City that the several provisions of these regulations are separable, in accordance with the following rules:

- a. If any court of competent jurisdiction shall adjudge any provisions of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.
- b. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure the judgment shall

not affect the applicability of the provisions to any other property or structure.

SECTION 2-3 DEFINITIONS

2-301. For the purposes of these regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Accessory building. A subordinate building located on the same lot or groups of lots as a main building and which serves a function customarily incidental to the main use. Customary accessory buildings include garages, carports and small storage sheds.

Accessory use. A subordinate use which serves an incidental function to that of the main use of the premises. Customary accessory uses include tennis courts, swimming pools, barbecue ovens, air conditioners, fireplaces and satellite dishes.

Agriculture. The use of a tract of land for the growing of crops, pasturage, nursery, dairying, animal and poultry husbandry and the sale of such products on the premises that are produced on the premises. Agriculture shall also include the structures, except residences, necessary for carrying out the farming operation but shall not include feed lots as defined by state statute.

Airport or heliport. Any landing area, runway or other facilities designed, used or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, tie-down areas, hangers, other necessary uses, and open spaces.

Alley. A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property the right-of-way of which is twenty (20) feet in width in residential districts and twenty-four (24) feet in width in commercial and industrial districts.

Alter or alteration. Any change, addition or modification in construction or use of a structure.

Amendment. The change or alteration to the Zoning Regulations in one of the following forms:

- a. A comprehensive revision or modification of the zoning text and/or maps.
- b. A text change in the zone requirements.
- c. The approval of a Conditional Use Permit as provided in these regulations.
- d. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as a "rezoning" and includes overlay zoning approval.

Animal clinic or hospital. Any building or structure designed for examination, observation, treatment, board or care of animals by a doctor of veterinary medicine.

Apartment. See Dwelling, multiple.

Automobile, truck and trailer sales and service. A building or premises used for the display and/or sales of new or used automobiles, trucks or trailers and where only minor repair work is performed.

Basement. That portion of a building having more than one-half of its height below grade.

Bed and breakfast inn. A residential structure other than a hotel or lodging house, where for compensation and by pre-arrangement for definite short-term periods, sleeping rooms and meals are provided for one or more persons.

Block. A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, parks, or a combination thereof.

Building. Any structure designed or intended for the enclosure, shelter, or protection of persons, animals or property.

Building, community. A building used and designed for social, educational, or recreational activities of a subdivision, mobile home park, neighborhood or community, providing such use is not for commercial gain.

Building, height. The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields the greater height.

- a. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of a building when such sidewalk or ground surface is no more than ten (10) feet above the lowest grade.
- b. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in paragraph (a) above is more than ten (10) feet above the lowest grade.

Building line. The building line is equivalent to the building setback line.

Building, principal. A non-accessory building in which a principal use of the lot on which it is located is conducted.

Building, public. A publicly-owned building used or occupied for a public purpose. Public

buildings include, but are not limited to: fire stations, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools. This shall include privately owned buildings used for the same public-type purposes.

Building setback line. A line within a lot or other parcel of land indicating the limit beyond which a building or structure may not be erected. See Yard.

Bulk regulations. Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling:

- a. Maximum height.
- b. Maximum lot coverage.
- c. Minimum size of yards and setbacks.

Canopy or marquee. A roof-like structure of a permanent nature which projects from the wall of a building and overhangs public walkways and/or the public right-of-way.

Car wash. An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.

Cellar. A story having more than one-half of its height below grade.

Child care facilities. See Day care facilities.

Church. An establishment, the principal use of which is religious worship, but which may include accessory uses in the main structure or in separate buildings such as Sunday School rooms, assembly rooms, kitchens, recreational facilities and libraries.

Club or lodge. See Fraternal, civic and social organizations.

Common open space. An area of land or water or combination thereof planned for passive or active recreation, which does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as open space.

Comprehensive plan. The currently adopted Comprehensive Plan for the City of Concordia.

Conditional use. A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties

and uses. Conditional uses created after the effective date of these regulations are allowed only after public notice, hearing, and approval as prescribed in these regulations and may have special conditions and safeguards attached to assure that the public interest is served.

Conditional use permit. A written document of certification permitting the construction, alteration or establishment of a conditional use created after the effective date of these regulations.

Convalescent homes. See Nursing homes, retirement homes or convalescent homes.

County Board or County Commission. The Board of County Commissioners of Cloud County, Kansas, or its staff, officers, boards or agencies.

Day care facilities. Definitions for the following facilities which provide care for children are established by state law and promulgated by regulations of the Kansas Department of Health and Environment (KDHE), the Kansas Department for Aging and Disability Services (KDADS) and the Kansas Department for Children and Families (DCF) Standards for such definitions may be periodically amended by changes to state regulations and such changes are incorporated by reference herein.

- a. **Adult day care home.** A facility for adults having some or all of the characteristics of homes for the elderly and disabled, whether operated for profit or not, which through its operation provides one (1) or more personal services for five (5) or more persons not related by blood or marriage to the owner or operator, for periods of time of less than twenty-four (24) hours. Personal services are in addition to housing and food service and include but are not limited to: personal assistance with bathing, dressing, housekeeping, eating, supervision of self-administered medication, individual or group activities, and assistance in securing health care from appropriate sources.
- b. **Child care center.** A facility operating in accordance with K.A.R. 28-4-420 *et seq.* which provides care and educational activities for 13 or more children two (2) weeks to 16 years of age for more than three and fewer than 24 hours per day including day time, evening and nighttime care; or which provides before and after school care for school-age children and licensed by the State as a child care center. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations as defined by the State of Kansas.
- c. **Day care home.** A home in which care is provided for a maximum of ten (10) children in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a day care home, in accordance with K.A.R. 28-4-113 *et seq.* or a maximum of 12 children regulated as a licensed group day care home by the State of Kansas in accordance with K.A.R. 28-4-113 *et seq.*

- d. **Family day care home.** A home maintained for the purpose of providing children with day care away from such children’s homes, for fewer than 24 hours a day, provided that not more than (7) children cared for at such place are less than 18 months of age operated in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a family daycare home.
- e. **Group day care home.** A home in which care is provided for a maximum of (12) children under 16 years of age, in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a group day care home. (K.A.R. 28-4-113-4(f)(1).)
- d. **Preschool.** A day care facility in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a preschool which:
 - 1. Provides learning experiences for children who have not attained the age eligibility to enter kindergarten prescribed in K.S.A. 72-1107(c), and any amendments thereto, and who are 30 months of age or older.
 - 2. Conducts sessions not exceeding three (3) hours per session.
 - 3. Does not enroll any children in more than one (1) session per day.
 - 4. Does not serve a meal.

The term “preschool” shall include all educational preschools, nursery schools, church-sponsored schools and cooperatives. A preschool may have fewer than 13 children and shall operate in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a preschool.

Disability. Shall mean, with respect to a person:

- a. A physical or mental impairment which substantially limits one or more of such person’s major life activities; or
- b. Having a record of having such an impairment; or
- c. Being regarded as having such an impairment.

Such term does not include current illegal use of or addiction to a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. Sec. 802).

Distance. Horizontal distances unless otherwise designated.

District. A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.

Drinking establishment. Premises licensed as a drinking establishment by the State of Kansas, open to the public and selling alcoholic liquor by the individual drink, for consumption on the licensed premises, in accordance with K.S.A. 41-2642 and amendments thereto. For purposes of these regulations the terms “tavern” and “bar” shall mean the same as a drinking establishment.

Dwelling. A building or portion thereof, not including mobile homes, which is designed and used exclusively for residential purposes.

Dwelling, multiple. A residential building having accommodations for and occupied by more than two (2) families, independently.

Dwelling, single-family. A residential building having accommodations for and occupied exclusively by one (1) family.

Dwelling, two-family. A residential building having accommodations for and occupied exclusively by two (2) families independently.

Dwelling unit. One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by not more than one family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

Easement. An interest in land that is held by someone other than the owner that entitles the holder to a specific limited use or right.

Engineer. The term engineer shall mean the Concordia City Engineer. When the context so requires, engineer shall mean an engineer licensed by the State of Kansas. Further, the term engineer shall also mean a Kansas-licensed land surveyor when the context of these regulations relates to functions or responsibilities required by state law or regulation to be performed by a licensed land surveyor.

Established building line. A building setback line generally parallel to the street right-of-way line established by existing principal buildings in a block.

Exception. A use which is not permitted outright within a district but is only allowed as an exception granted by the Board of Zoning Appeals when such exception is specifically authorized in

these regulations.

Family. One or more persons related by blood, marriage or adoption, or pursuant to legal guardianship; living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.

Floor area. For the purpose of applying the requirements of off-street loading and parking based on floor area, "floor area" shall mean the floor area used or intended to be used by tenants, or for the service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment for display or sale of merchandise. It shall not include areas used for nonpublic purposes such as storage, incidental repair, processing or packaging of merchandise, restrooms, utilities, kitchens, fitting or dressing rooms.

Fraternal, civic and social organizations. A corporation, partnership, business trust or association which is nonprofit, which has been exempted from the payment of federal income taxes and for which the sale of alcoholic beverages to members and their guests may be allowed under the Class A club definition of the state statutes provided it is secondary and incidental to the promotion of some other common objective of the organization. Said organizations may include, but are not limited to the following: V.F.W., Eagles, Elks, Knights of Columbus, American Legion, Masonic Lodges and Moose Lodges.

Frontage. All the property on one side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street. Where a street is dead-ended, the frontage shall be considered as all that property abutting on one side between an intersecting street and the dead-end of the street.

Garage, private. An accessory building to residential uses designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is an accessory.

Governing body. The Concordia City Commission.

Grade. Adjacent ground elevation is the lowest point of elevation of the finished surface of the ground, pavement or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Group boarding home for adults. A residential dwelling unit for not fewer than five (5) not more than ten (10) persons, 18 years of age or over, not constituting a "family" as defined in this section and meeting the criteria administered by KDHE. This definition shall not include an existing or proposed use of a residential dwelling unit which is in compliance with the definition of "group home" as defined in K.S.A. 12-736. Such latter use shall be considered to be a single-family residential use and shall not be considered a "group boarding home for adults".

Group boarding home for minors. A residential dwelling unit for persons under 18 years of age who do not constitute "family" as defined in this section, who for various reasons cannot reside in their natural home and where 24-hour adult care, supervision and consultation exists under license of the Kansas Department of Health and Environment provided, however, that this definition shall not include an existing or proposed use of a residential dwelling unit which is in compliance with the definition of "group home" as defined in K.S.A. 12-736. Such latter use shall be considered to be a single-family residential use and shall not be considered to be a "group boarding home for minors".

Group home. Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability, which is a physical or mental impairment as defined by K.S.A. 12-736, who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home. Such a dwelling must be licensed as a group home by the Kansas Department for Aging and Disability Services. See also Large group home.

Home occupation. An accessory occupational use conducted entirely within a dwelling unit by the occupants thereof, which is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site.

Hospital. An establishment used primarily for inpatient care and providing health care for sick or injured persons.

Hotel. A building or structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four (4) or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a cabin, motel or other type of lodging unit.

Inoperable motor vehicle. A motor vehicle that is wrecked, dismantled, or unable to move under its own power or is impounded by a governmental agency, or is not currently licensed.

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

Intensity. The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.

Junk yard. See Salvage yard.

Kennel. Any place, area, building or structure where more than three (3) dogs, 16 weeks of age or older are boarded, housed, cared for, fed, or trained by other than the owner, or are kept for purposes of breeding.

Laboratory, medical. An establishment which provides bacteriological, biological, medical, pathological and similar analytical or diagnostic services.

Large group home. A group home occupied by more than ten (10) residents, including staff.

Licensed provider. Shall mean a person or agency who provides mental health services and is licensed by:

- a. The Department for Aging and Disability Services pursuant to K.S.A. 75-3307b or K.S.A. 65-425 et seq., and amendments thereto; or
- b. The Behavioral Sciences Regulatory Board pursuant to K.S.A. 75-5346 et seq. or K.S.A. 74-5301 et seq., and amendments thereto; or
- c. The State Board of Healing Arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto.

Loading or unloading space. An off-street space or berth, on the same tract and contiguous with the principle building or group of buildings for the temporary parking of commercial vehicles for loading and unloading of merchandise or materials.

Lodging house. A building other than a hotel or motel, where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided. Individual cooking facilities are not provided.

Lot. A parcel or tract of land (legally described or platted) which is on record in the office of the Cloud County Register of Deeds. For the purposes of these regulations, a lot shall have a frontage upon a public street right-of-way.

Lot area. The area of a horizontal plane bound by the front, side and rear lot lines, excluding any road right-of-way or road easements. The total area within the property lines of a lot or tract.

Lot, corner. A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front upon that street on which it has its least dimension. A corner tract made up of more than one platted lot shall conform to all requirements established for a corner or other lot and shall be deemed to front upon that street on which one or more of such platted lots, which would individually not be classified as corner lots, front.

Lot coverage. The total area of building expressed as a percentage of the total lot, plot or tract.

Lot, depth of. The mean horizontal distance between the front and rear lot lines.

Lot, double frontage. A lot having a frontage on two (2) nonintersecting streets as distinguished

from a corner lot.

Lot, interior. A lot whose side line or lines do not abut upon any street.

Lot lines. The lines bounding a lot as defined herein.

Lot of record. A lot which is a part of a subdivision, which has been recorded in the office of the Register of Deeds of Cloud County or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Cloud County, prior to January 20, 1972.

Lot width. The mean horizontal distance between the side lot lines.

Lot, zoning. A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.

Manufactured home. A dwelling unit substantially assembled in an offsite manufacturing facility for the installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards (24CFR 3280 et seq.), which became effective June 15, 1976, promulgated by the U.S. Department of Housing and urban Development.

Manufactured home lot. A plot of ground for the placement of one manufactured home for single-family occupancy and the exclusive use of its occupants, and which provides the necessary utility services for water, sewage and electricity.

Manufactured home park. Any area, piece, parcel, tract or plot of ground equipped as required by these regulations for support of manufactured homes and used or intended to be used by one or more occupied manufactured homes, but under no circumstances shall the manufactured home spaces be sold or offered for sale individually. The term manufactured home park does not include sales lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of sale.

Manufactured home skirting. The enclosing of the area between the manufactured home and the ground with a material designed to obscure from view the chassis of a manufactured home.

Manufactured home subdivision. Any area, piece, parcel, tract or plot of ground used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

Manufacturing. Any method of processing, developing, fabricating, or assembling, either raw materials, semi-finished materials, or parts into a semi-finished or finished product.

Medical, dental or health clinic. Any building designed for use by more than one person lawfully

engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrist, podiatrists, and in which no patients are lodged overnight, but which may include a pharmacy.

Mobile home. A transportable, factory-built structure designed to be used as a year-round residential dwelling, which does not meet, or was built prior to, enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976.

Mobile home space. A plot of ground within a mobile home park, which can accommodate one mobile home and which provides the necessary utility services for water, sewerage, gas and electricity.

Modular home. A residential structure manufactured off-site and built to a nationally-recognized and accepted construction standard published by the Building Officials and Code Administrators International, Inc. (BOCA) or the International Conference of Building Officials, (ICBO) or the International Code Council (ICC) that is inspected and certified at the factory so that it meets said standard. A modular home shall have exterior structure materials and appearance similar to the customary single-family structures, as required for residential design manufactured home.

Motel. See Hotel.

Motor vehicle body shop. A building or premises used for vehicle body repair including painting.

Motor vehicle repair service. A building or premises used for the repair and servicing of motor vehicles excluding body and paint work.

Motor vehicle storage yard. A building or premises where operable, inoperable, abandoned, wrecked or junked vehicles are stored while awaiting final disposition.

Nonconforming lot of record. An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of subdivision regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

Nonconforming structure. An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

Nonconforming use. An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

Nursing homes, retirement homes or convalescent homes. An institution or agency licensed by the

State of Kansas for the reception, board, care or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, or alcohol or narcotics addiction.

Overlay district. A district which acts in conjunction with the underlying base zoning district.

Owner. Any person, agent, firm or corporation having a legal or equitable interest in the property.

Parking lot. An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.

Parking space. Any area surfaced for all-weather use, with materials approved by these regulations or the Engineer, used for the purpose of storing one parked motor vehicle.

Permitted use. A use by right which is specifically authorized in a particular zoning district.

Pharmacy. A place or premises used solely for the preparation, compounding and dispensing of drugs, medicines, medical-surgical supplies and prosthetic devices.

Planning Commission. The Concordia Planning Commission.

Professional office. Any building or part thereof used by one or more persons engaged in the practice of a recognized profession, included but not limited to accounting, medicine and law.

Public utility. Any business of which the purpose is to furnish any of the following to the general public:

- a. Telephone service.
- b. Telegraph service.
- c. Electricity.
- d. Natural gas.
- e. Water.
- f. Transportation of persons or property.
- g. Cable television.
- h. Any other business so affecting the public interest as to be subject to supervision or regulation by a governmental agency.

Recreational vehicle. A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be draw by another vehicle. The term recreational vehicle shall include but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.

Rehabilitation home. A residential building which is used by an organized group licensed or regulated by the State of Kansas to supervise the rehabilitation of the individual occupants. Sometimes such homes are known as "halfway houses" for the rehabilitation of wayward juveniles, drug or alcohol addicts or former offenders.

Residential design manufactured home. A manufactured home on a permanent foundation which has minimum dimensions of 22 body feet in width, a pitched roof, and siding and roofing materials which are customarily used on site-built homes.

Restaurant. (a) A public eating establishment, except drive-ins, in which the primary function is the preparation and serving of food on the premises.

(b) For purposes of determining the applicability of the 200' distance requirement from a church, school or hospital, set out in Table 9-1 of these regulations, the following applies to drinking establishments which are also food service establishments:

- (1) In the case of a drinking establishment which derives from sales of food for consumption on the licensed premises not less than 30% of its gross receipts from all sales of food and alcoholic beverages on such premises in a 12-month period: such a business shall not be subject to the 200' restriction of Table 9-1.
- (2) In the case of a drinking establishment which derives less than 30% of its gross receipts from all sales of food and alcoholic beverages on such premises in a 12-month period: such a business shall be subject to the 200' restriction of Table 9-1.

Restaurant, drive-in. An establishment whose primary purpose is the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not be construed as to include a cafeteria.

Retirement homes. See Nursing homes, retirement homes or convalescent homes.

Safe house. A non-secure facility providing 24-hour residential care for persons unrelated to the care givers. Emergency shelter and maternity care may be provided.

Sale, retail. The sale of goods, merchandise and/or commodities to the ultimate consumer.

Sale, wholesale. The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.

Salvage yard. A building or premise where junk, waste, inoperable motor vehicles or discarded and salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, crushed, handled or prepared for recycling.

Service, gas or filling station. A building or group of buildings and adjacent surfaced area where motor vehicles are or may be refueled and serviced. Self-service pumps without buildings shall also be included but such service shall not include tire recapping, body repair, major overhaul, or sale or rental of motor vehicles (including automobiles, trucks, trailers, mobile homes, campers) or similar uses.

Setback. A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the front street right-of-way.

Sight triangle. The area of a corner lot which shall be free from any visual obstruction between a height of two and one-half (2 1/2) feet and eight (8) feet above the grade of the top of the curb of the adjoining street. The sight triangle area shall be determined by the "Visibility Triangle for Driveways and Sideroads (Stop Condition)" table in the current KDOT Corridor Management Policy Manual. The table distances shall be applicable to all highways or streets without regard to street classification.

Sign. See Article 27 for definitions relevant to signs.

Sleeping room. A room within a residential structure which such room is used for one or more persons for sleeping purposes, and is without cooking facilities.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above. If the finished floor level directly above a basement or unused underfloor space is six (6) feet or more above grade as defined herein for more than fifty (50) percent of the total perimeter or is eight (8) feet or more above grade for a total lineal distance of twenty (20) feet or more, such basement or unused underfloor space shall be considered as a story.

Street. A right-of-way, dedicated to the public use, which provides principle vehicular and pedestrian access to adjacent properties.

Street line. A dividing line between a lot, tract or parcel of land and the contiguous street.

Street network.

- a. **Arterial.** A street which provides for through traffic movement between and around areas and across the city, with direct access to abutting property; subject to necessary control of entrances, exits, and curb uses.
- b. **Collector.** A street which provides for traffic movement between arterials and local streets, with direct access to abutting property.
- c. **Local.** A street which provides for direct access to abutting property and for local traffic movement whether in business, industrial or residential uses.

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. For purposes of these regulations, the following shall not be considered a structural alteration:

- a. Attachment of a new front where structural supports are not changed.
- b. Addition of fire escapes where structural supports are not changed.
- c. New windows where lintels and support walls are not materially changed.
- d. Repair or replacement of nonstructural members.

Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Subdivision regulations. The City of Concordia Subdivision Regulations, as adopted by the City Governing Body and as amended from time to time.

Tavern. An establishment in which the primary function is the public sale and serving of cereal malt beverages for consumption on the premises. For purposes of these regulations the terms “tavern” and “bar” shall mean the same as a drinking establishment

Townhouse. See Section 6-10 of these regulations.

Tract. A plot or parcel of land, other than a lot in a subdivision which is recorded in the office of the Cloud County Register of Deeds.

Variance. A specific variation granted by the Board of Zoning Appeals from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of these regulations will, in an individual case, result in unnecessary hardship. Such variance, however, shall not permit any use not permitted by the regulations for such district.

Yard. A space on the same lot with a main building, open, unoccupied, and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in these zoning regulations.

Yard, front. A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the building setback line.

Yard, rear. A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of such main building. Where no rear lot line exists, a line parallel to the front line shall be drawn, ten (10) feet in length between the side lot lines, and the required rear yard shall be measured from this line.

Yard, side. A yard between the main building and the side lot line, extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally, at ninety (90) degrees with the side lot line, from the nearest point of the side lot line toward the nearest part of the main building.

Zone or district. A section of the zoning area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open space are herein established.

Zoning administrator. The person or persons authorized and empowered by the City Manager to administer the requirements of these zoning regulations.

Zoning area. The area to be zoned as set out on the official zoning map filed of record.

Zoning regulations. The term zoning regulations or this or these regulations shall mean the requirements set forth in these regulations.

ARTICLE 3

DISTRICTS AND BOUNDARIES

Sections:

- 3-1 District Classifications**
- 3-2 Zoning District Maps**
- 3-3 Annexation**
- 3-4 Rules Where Uncertainty May Arise**
- 3-5 Variances and Exceptions Required**

SECTION 3-1 DISTRICT CLASSIFICATIONS

3-101. In order to classify, regulate and restrict the locations of trades, industries, and the location of buildings designed for specified uses; to regulate and limit the height and bulk of buildings; to regulate and limit the intensity of the use of lots; to regulate and determine the area of yards and other open spaces surrounding buildings; and to regulate and restrict the density of population, the City is hereby divided into thirteen (13) districts and five (5) overlay districts which are designated as follows:

“A-L”	Agricultural District
“R-1”	Low Density Residential District
“R-2”	Medium Density Residential District
“R-3”	High Density Residential District
“C-1”	Office and Service Business District
“C-2”	Restricted Commercial District
“C-3”	General Commercial District
“C-4”	Central Business District
“MP”	Mobile Home Park District
“MHS”	Manufactured Home Subdivision District
“I-1”	Light Industrial District
“I-2”	Heavy Industrial District
“P”	Public Use District
“PUD”	Planned Unit Development Overlay District
“EH-O”	Elderly Housing Overlay District
“A-O”	Airport Overlay District
“FH-O”	Flood Hazard Overlay District
“HMOD”	Highway 81 Mixed Use Overlay District

SECTION 3-2 ZONING DISTRICT MAPS

3-201. The boundaries of the districts are shown on the official zoning district maps which are filed in the office of the Zoning Administrator. Each zoning map, with all notations, references, and other information shown thereon, is, by adoption of these zoning regulations, made as much a part of these zoning regulations as if such map, notations, references, and other information were specifically set forth herein.

SECTION 3-3 ANNEXATION

3-301. Land hereafter annexed into the City shall receive, upon annexation, the zoning district classification as set forth in this section, until procedures are followed to amend that zoning classification. Land shall be classified as R-1, low-density residential development unless the owner of the land to be annexed requests, at least 15 days prior to the effective date of the annexation, that such land be zoned A-L, agricultural, upon its annexation.

SECTION 3-4 RULES WHERE UNCERTAINTY MAY ARISE

3-401. Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning district map, the following rules apply:

- a. The district boundaries are the center lines of streets or alleys unless otherwise shown.
- b. 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 zoning district map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the district unless the boundaries are otherwise indicated on the map.
- c. In unsubdivided property, the district boundary lines on the zoning district map shall be determined by use of the scale appearing on the map.
- d. When a lot held in one ownership on the effective date of these regulations is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district when the application of this provision would not increase the area of the less restrictive portion of the lot by more than 25 percent.
- e. Where uncertainty may arise, other than as listed above, an interpretation of the Board of Zoning Appeals shall be required.

SECTION 3-5 VARIANCES AND EXCEPTIONS REQUIRED

3-501. Except as hereinafter provided:

- a. 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.
- b. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is located.
- c. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations of the district in which the building is located.
- d. The minimum yards and other open spaces, including lot area per family, required by these zoning regulations for each and every building existing at the time of passage of these zoning regulations 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 area be reduced beyond the district requirements of these zoning regulations.

ARTICLE 4

INTENT OF DISTRICTS

Sections:

- 4-1 "A-L" Agricultural District
- 4-2 "R-1" Low Density Residential District
- 4-3 "R-2" Medium Density Residential District
- 4-4 "R-3" High Density Residential District
- 4-5 "EH-O" Elderly Housing Overlay District
- 4-6 "C-1" Office and Service Business District
- 4-7 "C-2" Restricted Commercial District
- 4-8 "C-3" General Commercial District
- 4-9 "C-4" Central Business District
- 4-10 "MP" Mobile Home Park District
- 4-11 "MHS" Manufactured Home Subdivision District
- 4-12 "I-1" Light Industrial District
- 4-13 "I-2" Heavy Industrial District
- 4-14 "PUD" Planned Unit Development Overlay District
- 4-15 "P" Public Use District
- 4-16 "HMOD" Highway 81 Mixed Use Overlay District

SECTION 4-1 "A-L" AGRICULTURAL DISTRICT

4-101. It is the intent of the A-L District to preserve and protect agricultural resources. The district is not intended to serve the homeowner who lives on a small suburban lot, but is designed to accommodate agricultural operations on substantial acreage. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses.

SECTION 4-2 "R-1" LOW DENSITY RESIDENTIAL DISTRICT

4-201. The intent of the R-1 District is to provide for areas of low density single-family development including certain public uses such as schools, churches and parks which promote the health, safety, order or general welfare of persons residing in the district.

SECTION 4-3 "R-2" MEDIUM DENSITY RESIDENTIAL DISTRICT

4-301. The intent of the R-2 District is to provide for areas of single-family and two-family residential development and related residential activities at a medium density.

SECTION 4-4 "R-3" HIGH DENSITY RESIDENTIAL DISTRICT

4-401. The intent of the R-3 District is to provide for areas of residential development of apartments at a high density and to also allow single and two-family dwelling units.

SECTION 4-5 "EH-O" ELDERLY HOUSING OVERLAY DISTRICT

4-501. The intent of the EHR-O District is to provide for areas of residential development for elderly housing and related facilities in locations convenient to public facilities, shops and other needs of senior citizens of the community.

SECTION 4-6 "C-1" OFFICE AND SERVICE BUSINESS DISTRICT

4-601. The intent of the C-1 District is to provide for areas for public, quasi-public, institutional, and professional service uses. Density and intensity of use may be considered moderate. Uses in this district are intended to be compatible with adjoining residential districts.

SECTION 4-7 "C-2" RESTRICTED COMMERCIAL DISTRICT

4-701. The intent of the C-2 District is to provide for areas of convenient shopping facilities located to serve one or more residential neighborhoods. The types of uses permitted include the basic retail, office and service uses that are customarily located in a shopping center.

SECTION 4-8 "C-3" GENERAL COMMERCIAL DISTRICT

4-801. The intent of the C-3 District is to allow basic retail, service and office uses other than those normally permitted in neighborhood centers. This district is also intended to provide locations for commercial activities that do not require a central location downtown, but do require a location easily accessible to downtown shoppers. Business uses needing large floor areas, particularly those of a service nature, not compatible with Central Business District uses, are included in this district.

SECTION 4-9 "C-4" CENTRAL BUSINESS DISTRICT

4-901. The intent of the C-4 District is to encourage the location of commercial uses in the central business district in order to maintain that area as the core retail, government and entertainment district for the community.

SECTION 4-10 "MP" MOBILE HOME PARK DISTRICT

4-1001. The intent of the MP District is to provide low density mobile home park developments which are compatible with the character of the surrounding neighborhood in which they are located. Mobile home parks are residential uses and should be located in areas where services and amenities are available such as those found in areas comprised of site-built housing. Mobile homes in this district are on leased spaces and not permitted to be placed on permanent foundations.

SECTION 4-11 "MHS" MANUFACTURED HOME SUBDIVISION DISTRICT

4-1101. The intent of the MHS District is to provide low density manufactured home development which would be compatible with the character of the surrounding neighborhoods.

SECTION 4-12 "I-1" LIGHT INDUSTRIAL DISTRICT

14-1201. The intent of the I-1 District is primarily to provide locations for those manufacturing industries and related industrial activities in which the finished product is generally produced from semi-finished materials and requires little or no outside material storage. The effect of the production process upon surrounding areas is normally that of traffic generated by the receipt and delivery of materials and goods and traffic generated by employees. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees.

SECTION 4-13 "I-2" HEAVY INDUSTRIAL DISTRICT

14-1301. The intent of the I-2 District is to provide locations for basic or primary industries and related industrial activities. Many of these industries characteristically store bulk quantities of raw or scrap materials for processing to semi-finished products. Commercial uses permitted in this district are generally those which serve the convenience of industrial establishments and their employees.

SECTION 4-14 "PUD" PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

4-1401. The intent of the PUD District is to encourage innovation in residential, commercial and industrial development by allowing greater variety in type, design, and layout of buildings; to encourage a more efficient use of land reflecting changes in the technology of land development; to encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of land; and to provide a procedure which relates the type, design, and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods.

SECTION 4-15 "P" PUBLIC USE DISTRICT

4-1501. The intent of the P District is to provide locations for public ownership that are used for major public facilities.

SECTION 4-16 "HMOD" HIGHWAY 81 MIXED USE OVERLAY DISTRICT

4-1601. The intent of the HMOD overlay district is to promote the redevelopment of properties in a manner that integrates commercial and/or office with residential uses. In addition, this district establishes minimum standards for site design, landscaping, screening, buffering, and traffic access management. These standards are intended to ensure coordinated site design for commercial/office uses to minimize adverse impacts on adjacent residential properties.

ARTICLE 5

AGRICULTURAL DISTRICT (A-L)

Sections:

- 5-1 Intent**
- 5-2 Permitted Uses**
- 5-3 Conditional Uses**
- 5-4 Home Occupations**
- 5-5 Accessory Uses**
- 5-6 Height and Yard Regulations**
- 5-7 Sign Regulations**
- 5-8 Parking Regulations**

SECTION 5-1 INTENT

5-101. It is the intent of the A-L District to preserve and protect agricultural resources. The district is not intended to serve the homeowner who lives on a small suburban lot, but is designed to accommodate agricultural operations on substantial acreage. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the basis that they are no more offensive than normal agricultural uses.

5-102. General agricultural operations--Nothing in this article shall apply to or affect any land in excess of twenty (20) acres under one ownership which is actually used for agricultural purposes.

SECTION 5-2 PERMITTED USES

5-201. In the A-L District no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:

- a. Single-family dwellings where the land is used or intended to be used only for agricultural purposes except that the tract on which the dwelling may be placed shall not be less than twenty (20) acres.
- b. Public parks and recreation areas.
- c. Farms and ranches where the land is under single ownership and used for general agricultural purposes.

- d. Golf courses, except miniature, pitch and putt golf courses, and driving tees operated for commercial purposes.
- e. Greenhouses and nurseries.
- f. Stands for the sale, at retail, of agricultural products or commodities raised on the premises.

SECTION 5-3 CONDITIONAL USES

5-301. In the A-L District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 26 of these regulations:

- a. Airports and heliports.
- b. Any public building or land used by any department of the city, county, state or federal government.
- c. Cemetery, crematory or mausoleum.
- d. Churches and similar places of worship.
- e. Commercial agricultural product storage facilities (elevators) when no other business is in combination with said storage.
- f. Commercial development of natural resources and commercial extraction of raw materials such as rock, gravel, sand, etc.
- g. Exploration and extraction of oil and natural gas.
- h. Kennels provided that:
 1. The minimum lot size shall be not less than ten (10) acres.
 2. No kennel buildings or runs shall be located nearer than seventy-five (75) feet to any property lines.
 3. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick or stone wall, louvered wood, stockade or chain-link fence with

aluminum strip intertwined or other equivalent fencing, providing a sight barrier to the dogs.

- i. Mobile homes subject to the following conditions:
 - 1. Minimum lot size shall be ten (10) acres.
 - 2. If the property is subsequently rezoned to a residential district the owner will remove the mobile home within ninety (90) days of the effective date of the zoning change.
 - 3. The mobile home shall not be placed on a permanent foundation but shall be secured by tie downs and ground anchors in accordance with the Mobile Home and Residential Vehicle Code, K.S.A. 75-1211:1234.
 - 4. Compliance with all applicable health and sanitation standards for water and sewer systems.
- j. Privately owned parks, playgrounds, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.
- k. Public or parochial schools, elementary, junior high, high schools and private schools with equivalent curriculum.
- l. Radio, telephone or television transmitters and towers, subject to additional regulations set out at Article 12.
- m. Salvage yards, subject to the following:
 - 1. The yard must be located at least three hundred (300) feet from the boundary of any residential district.
 - 2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence or wall at least six and one-half (6 1/2) feet high. The fence or wall, having a visual density of at least ninety (90) percent, shall be of uniform height, uniform texture and color, and shall be so maintained by the operator as to ensure maximum safety to the public and obscure the salvage material from view of the public. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard. No salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.

3. No salvage material shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence, or wall or within the public right-of-way.
 4. Burning of waste materials shall be permitted only after approval of the City Fire Department.
- n. Seasonal or temporary uses such as recreation camps or similar enterprises.
 - o. Telephone exchange, electric substations, cable television, or similar public utilities.
 - p. Theaters, motion picture, outdoor.
 - q. Temporary uses or uses of a temporary nature, such as portable auto shredders and balers, or asphalt or concrete batch plants, subject to the following requirements:
 1. Said temporary use shall be located at least three hundred (300) feet from a residential district.
 2. The routing and movement of trucks or similar heavy vehicles which are necessary to the operation of said use shall be on streets, roads or highways designated by the City as capable for carrying the loads imposed by such vehicles.
 3. Accumulation of trash, junk or other waste materials generated as part of such use shall be disposed of daily.
 4. The applicant shall demonstrate that satisfactory provisions have been made for fire protection, police protection, safety and site drainage.
 5. Upon termination of the temporary use, the site shall be cleared of improvements and debris not conforming with uses permitted in the A-L zoning district and the City Commission may require a bond guaranteeing the removal of the improvements.
 6. Approval of a temporary use may be granted by the City Commission for up to twelve (12) consecutive months. Upon conclusion of the twelve-month period, the City Commission may grant an extension, upon holding a public hearing, not to exceed twelve (12) additional consecutive months. Should the City Commission deny an extension of time, the operation shall cease and the site be cleared of improvements and debris within ninety (90) days from the time of termination.

7. Municipal waste disposal sites, subject to all required governmental permitting and certification.

SECTION 5-4 HOME OCCUPATIONS

5-401. Regulations relating to home occupations in the A-L District are set out in Article 17.

SECTION 5-5 ACCESSORY USES

5-501. Regulations relating to accessory uses in the A-L District are set out in Article 20, at Section 20-8.

SECTION 5-6 HEIGHT AND YARD REGULATIONS

5-601. No building shall exceed thirty-five (35) feet in height, except as otherwise provided in Article 20.

5-602.

- a. Front yard.
 1. Front yards on arterial and collector streets and unplatted tracts on local streets shall conform with the provisions of Article 24.
 2. There shall be a front yard having a depth of not less than thirty (30) feet or the established building line as defined in Article 3, except as required in a.1. above.
 3. Where lots have a double frontage, the required front yard shall be provided on both streets.
 4. Where a lot is located at the intersection of two (2) or more streets, there shall be a setback from the side street of the lot of one-half of the required front yard setback; except that, when lots have been platted facing said side street, the setback from the side street shall be no less than five (5) feet less than the required front yard setback of the lots platted on the side street.
 5. No accessory building shall project beyond the front building setback line of any lot.

5-603. Side yard. Except as otherwise provided in 5-602.a.4. and in Article 20, there shall be a side yard of not less than eight (8) feet on each side of a building.

5-604. Rear yard. Except as otherwise required in Article 20 there shall be a rear yard having a depth of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller.

5-605. Additional yard regulations are set out in Section 20-2.

SECTION 5-7 SIGN REGULATIONS

5-701. Sign regulations for the A-L District are set out in Article 27.

SECTION 5-8 PARKING REGULATIONS

5-801. Parking regulations for the A-L District are set out in Article 22.

ARTICLE 6

RESIDENTIAL ZONED DISTRICTS (R-1, R-2, R-3)

Sections:

- 6-1 Intent**
- 6-2 Residential Zoning Districts**
- 6-3 Permitted and Conditional Uses**
- 6-4 Home Occupations**
- 6-5 Intensity of Use**
- 6-6 Height and Yard Regulations**
- 6-7 Accessory Uses**
- 6-8 Sign Regulations**
- 6-9 Parking Regulations**
- 6-10 Supplemental Regulations**
- 6-11 Removal and Relocation of Manufactured Homes**

SECTION 6-1 INTENT

6-101. It is the intent of the residential zoning districts to provide for areas of low, medium and high density residential development including certain public or private uses which are compatible with residential development.

SECTION 6-2 RESIDENTIAL ZONING DISTRICTS

6-201. The following three residential zoning districts are hereby created: R-1, Low Density Residential District; R-2, Medium Density Residential District; and R-3, High Density Residential District.

SECTION 6-3 PERMITTED AND CONDITIONAL USES

6-301. In the residential zoning districts, the uses listed in Table 6-1 within the designated zoning districts are permitted uses or conditional uses as designated. Conditional uses require the issuance of a Conditional Use Permit in accordance with the provisions of Article 26. No building or land shall be used and no building or structure shall be hereafter erected, enlarged or altered unless otherwise provided for in these zoning regulations, except as listed in Table 6-1.

Table 6-1
Residential Zoned Districts
Permitted and Conditional Uses

P = Indicates Permitted Uses

C = Indicates Conditional Uses

Use		R-1	R-2	R-3
1.	Any public building or land use by any department of the City, County, State or Federal government.	C	C	C
2.	Bed and breakfast inns.	C ₍₁₀₎	C ₍₁₀₎	P ₍₁₎ / C
3.	Churches and similar places of worship.	P	P	P
4.	Community recreation building owned and operated by a public agency.		P	P
5.	Convents.	P	P	P
6.	Day care facilities: adult day care homes, child care centers, day care homes, family day care homes, group day care homes and preschools.	P ₍₃₎	P ₍₃₎	P ₍₃₎
7.	Dormitories for students of community colleges and theological institutions.	C ₍₃₎	C ₍₃₎	C ₍₃₎
8.	Dwellings: a. Single family.	P	P	P
	b. Two family.		P	P
	c. Three or more families.			P
9.	Fraternal organizations, lodges.	C	C	C
10.	Golf courses.	P ₍₆₎	P ₍₆₎	P ₍₆₎
11.	Group boarding homes for adults.	C ₍₇₎	C ₍₇₎	P ₍₂₎ / C ₍₆₎
12.	Group boarding homes for minors.	P ₍₅₎ / C ₍₅₎	P ₍₅₎ / C ₍₅₎	P ₍₂₎ / C ₍₆₎
13.	Group homes.	P	P	P
14.	Hospitals and related medical facilities including, but not limited to, medical, dental and health clinics.	C	C	C
15.	Large group homes.	C ₍₃₎	C ₍₃₎	P ₍₁₎ / C ₍₄₎
16.	Lodging houses.	C	C	P ₍₁₎ / C
17.	Nonprofit institutions of an educational, philanthropic or eleemosynary nature.			P
18.	Nursing homes, rest homes, convalescent homes and similar facilities.		C	P
19.	Raising of crops, trees, shrubs and grasses not sold on the premises.	P	P	P
20.	Rehabilitation houses.			P ₍₂₎ / C ₍₄₎
21.	Safe houses.	P ₍₄₎ / C ₍₈₎	P ₍₄₎ / C ₍₈₎	C
22.	Schools: a. Public and private elementary schools.	P	P	P
	b. Public and private secondary schools.	C	C	P
	c. Post-secondary educational institutions.	C	C	P
23.	Telephone exchanges, electric substations and similar public utilities.			C

Permitted Uses Footnotes:

- (1) When having nine (9) or fewer sleeping rooms.
- (2) When having twenty (20) or fewer residents, including staff.
- (3) Subject to State of Kansas licensure requirements.
- (4) When having six (6) or fewer sleeping rooms.
- (5) When having eight (8) or fewer residents plus no more than two (2) staff.
- (6) Excluding miniature and pitch and putt courses and commercially operated golf driving ranges.

Conditional Uses Footnotes:

- (1) Hospitals to be situated on a lot, plot or parcel of land five (5) acres or larger.
- (2) (Reserved)
- (3) For group homes having more than ten (10) residents, including staff.
- (4) For facilities having more than twenty (20) residents, including staff.
- (5) When having more than ten (10) residents, including staff.
- (6) When having more then twenty (20) residents, including staff.
- (7) When having fewer than twenty (20) residents, including staff.
- (8) When having seven (7) or more sleeping rooms.
- (9) If property contains at least 500 sq. ft. of ground lot area per occupant.

(10) When having four (4) or fewer sleeping rooms. See also section 6-12.

SECTION 6-4 HOME OCCUPATIONS

6-401. Home occupation regulations for the residential districts are set out in Article 17.

SECTION 6-5 INTENSITY OF USE

6-501. Every dwelling structure erected, enlarged, relocated or reconstructed in the residential districts shall be upon lots or tracts containing the following minimum areas measured in square feet per dwelling unit.

**TABLE 6-2
MINIMUM LOT AREAS**

Use		R-1	R-2	R-3
1.	Single-family dwelling	8,400	7,600	6,800
2.	Two-family dwelling	NA	5,000	4,500
3.	Three and four family dwelling	NA	NA	3,000
4.	Five or more family dwelling	NA	NA	2,000

Additional requirements:

Maximum lot coverage by principal buildings shall not exceed fifty percent (50%). Where a lot has less area than required in Table 6-2 and was in existence as a separate legal lot prior to the effective date of these regulations, a zoning certificate may be issued for such lot.

SECTION 6-6 HEIGHT AND YARD REGULATIONS

6-601. Height Regulations. No building or structure shall exceed three (3) stories or thirty-five (35) feet in height except in the R-3 district where a building or structure may:

- a. Be up to fifty (50) feet in height with the approval of the Zoning Administrator and with additional front, rear and side yard setbacks required at a rate of one (1) additional foot of yards for every two (2) feet of height above thirty-five (35) feet; or
- b. Be higher than fifty (50) feet upon approval of the Board of Zoning Appeals and with

additional front, rear and side yard setbacks as required in (a) above for all height above thirty-five (35) feet.

6-602. Yard Regulations. Front, side and rear yards shall conform to Table 6-3.

TABLE 6-3

MINIMUM YARD REGULATIONS

District	Front (1) (feet)	Side (2) (feet)	Rear (3) (feet)
R-1	15	6	20
R-2	15	6	20
R-3	15	6	20

Footnotes:

- (1) Front yards on arterial or collector streets shall comply with Article 24.
- (2) Where a lot is located at the intersection of two or more streets, there shall be a setback from the side street of the lot of one-half of the required front yard setback; except that when lots have been platted facing said side street, the setback from the side street shall be no less than five (5) feet less than the required front yard setback of the lots platted on the same street.
- (3) Or twenty (20) percent of the depth of the lot whichever is less; provided, in no case shall the rear yard be less than ten (10) feet.

SECTION 6-7 ACCESSORY USES

6-701. All accessory uses or structures shall be located in the side and/or rear yard only.

6-702. Regulations relating to accessory uses and structures in residential districts are set out in Article 20, at Section 20-8.

SECTION 6-8 SIGN REGULATIONS

6-801. Sign regulations for the residential districts are set out in Article 27.

SECTION 6-9 PARKING REGULATIONS

6-901. Parking regulations for the residential districts are set out in Article 22.

SECTION 6-10 SUPPLEMENTAL REGULATIONS

6-1001. Additional supplemental regulations for the residential districts are set out in Article 20.

6-1002. Screening of Property in the R-3 District. Except where otherwise provided in this section, when R-3 zoned property abuts property in the R-1 District, a solid or semi-solid fence or wall from six (6) to eight (8) feet in height and having a visual density of not less than ninety percent (90%) per square foot shall be erected upon the property zoned R-3, within three feet of the property line(s) abutting the property zoned R-1. Plantings may be used for screening subject to the approval of the Zoning Administrator as to type, size and number of plants. All required screening shall be maintained by the owner of the property zoned R-3. The requirements of this section are not required of a property within the R-3 District which has as its only use single-family residences.

6-1003. Zero Lot Line.

- a. Zero lot line concept is where a one or two (2) family dwelling has one exterior wall on or within one (1) foot of a side property line and the remaining side yard is double the normal side yard required by district regulations. Zero lot line developments may be built under the following conditions:
 1. When submitted as part of a new subdivision plat or an amendment to an existing subdivision and each lot to be developed using the zero-lot line concept is so designated showing which lot line is the zero-lot line.
 2. On an existing lot in a partially developed subdivision when submitted to and approved by the Board of Zoning Appeals as a variance under Article 25 of these regulations.
- b. On any lot approved for the zero-lot line concept by platting, re-platting or approval of the Board of Zoning Appeals, the following stipulations shall apply:
 1. A maintenance easement of at least four (4) feet in width shall be provided and recorded on the property adjoining the designated zero lot line.
 2. There shall be no door or window openings on the side of the house which is built on the zero-lot line.

3. No portion of a roof, gutter or other part of the structure shall project past the zero-lot line and all roof drainage will be installed so as to keep all run-off water off of the adjoining property.
4. If an owner or builder does not build on a designated zero-lot line, the double side yard must still be observed.

6-1004. Attached single-family, townhouses and condominiums. Attached single-family dwellings, townhouses and condominiums may be built by applying for and building as a planned unit development pursuant to Article 16 of these regulations or upon existing tracts by meeting the following stipulations:

a. Definitions.

1. Attached single-family dwellings. A series of no more than four (4) single-family dwelling structures which are joined at one or more sides by a common wall and where the units are completely independent of each other, including the parcel of land upon which each unit is built.
2. Townhouse. A series of three (3) or more single-family residential dwelling structures joined together at one or more sides by a common wall and where the units are independent of each other, including the immediate parcel of land upon which each unit is built, and where portions of the land are held in common ownership with other units in the project.
3. Condominium. Multi-unit structures with each unit under separate ownership and each owner owning only air space occupied by his or her unit. All owners jointly own all common areas and land.

b. Conditions.

1. Attached single-family dwellings, as defined in this section, may be erected within the R-2 and R-3 districts subject to district regulations and the following conditions:
 - (a) No individual unit shall have less than twenty-two (22) feet frontage upon a public street.
 - (b) No individual ownership shall contain less than two thousand two hundred (2,200) square feet.
 - (c) The intensity of use for all structures shall be no less than required by the district in which the structures are erected.

- (d) Each unit shall be separated from other units at common party walls which are of two (2) hour fire resistive construction or comply with requirements of the City-adopted fire code, whichever standard is greater.
- (e) Party wall agreements in the form of restrictive covenants which run with the land to define ownership, use and responsibility for maintenance and use of such party wall must be provided.
- (f) Parking shall be as required for single-family residences in Article 22.
- (f) Utility services to each unit shall be separately metered and utilities served from the side or rear of the tract shall be run in a common private utility easement ten (10) feet wide and extending from the public utility easements to within ten (10) feet of the building. An additional ten (10) foot wide private utility easement shall extend out from the rear of the building behind each unit for the establishment of individual lines. Water services from the street side may be run in a common line from the main to the property line and then branch off to each individual unit. Other utilities serving the structure from the front or street side shall be from a private easement arrangement as required for the rear of side-yard utilities.

2. Townhouses may be erected within the R-2 and R-3 Districts subject to the applicable district regulations and the following conditions:

- (a) The intensity of use for all structures shall be no less than required by the district in which the structures are erected.
- (b) Each unit shall be separated from other units at common party walls which are of two (2) hour fire resistive construction or comply with requirements of the City-adopted fire code, whichever standard is greater.
- (c) Utility services to each unit shall be separately metered and utilities served from the side or rear of the tract shall be run in a common private utility easement ten (10) feet wide and extending from the public utility easements to within ten (10) feet of the building. An additional ten (10) foot wide private utility easement shall extend out from the rear of the building behind each unit for the establishment of individual lines. Water services from the street side may be run in a common line from the main to the property line and then branched off to each individual unit. Other utilities serving the structure from the front or street side shall be from a private easement arrangement as

required for the rear of side-yard utilities.

- (d) All common open space shall be jointly owned by the owners of the individual structures and agreements setting forth the responsibilities of external maintenance of common areas and facilities and setting forth restrictions shall be filed with the application for permit and recorded with the Cloud County Register of Deeds. Such agreements shall be in accordance with K.S.A. 58-3101 et seq.
- (e) Parking shall be as required for multiple-family residences in Article 22.

3. Condominiums may be erected within the R-3 District subject to the district regulations and the following conditions:

- (a) The intensity of use for all structures shall be no less than required by the district in which the structures are erected.
- (b) Each unit shall be separated from each other as required for multiple family unit provisions of the building code.
- (c) Utility services to each unit shall be separately metered and utilities served from the side or rear of the tract shall be run in a common private utility easement ten (10) feet wide and extending from the public utility easements to within ten (10) feet of the building. An additional ten (10) foot wide private utility easement shall extend out from the rear of the building behind each unit for the establishment of individual lines. Water services from the street side may be run in a common line from the main to the property line and then branched off to each unit. Other utilities serving the structure from the front or street shall be from a private easement arrangement as required for the rear of side-yard utilities.
- (d) All common open space shall be jointly owned by the owners of the individual units and agreements setting forth the responsibilities of both external and internal common areas and facilities and setting forth restrictions shall be filed with the application for permit and recorded with the Cloud County Register of Deeds. Such agreements shall be in accordance with K.S.A. 58-3101 et seq.
- (e) Parking shall be as required for multiple-family residences in Article 22.

SECTION 6-11 REMOVAL AND RELOCATION OF MANUFACTURED HOMES

6-1101. The removal and relocation of manufactured homes, other than residential-design manufactured homes, shall be governed by the provisions of Article 21 of these regulations.

SECTION 6-12 BED AND BREAKFAST INNS

6-1201. Any conditional use permit to allow a bed and breakfast inn to locate in either the R-1 or R-2 zoning districts must establish the following conditions:

1. All applicable city, state and federal regulations must be fully complied with, including all city-adopted building and life safety codes.
2. The owner's place of residency must be the permitted bed and breakfast principle structure, and be owner occupied during hours of operation as a bed and breakfast inn.
3. No commercial events may be held in any common area, including the grounds. Services of the bed and breakfast shall be provided to guests only.
4. In addition to any other signage allowed under these regulations, a bed and breakfast inn may suspend a sign from a lamppost or similar device, not to exceed sixteen (16) square feet in area, per side, and not to exceed eight (8) feet in overall height, measured from the ground at the base of the sign. Except as otherwise provided herein, all regulations for a pole sign at section 27-15 shall apply to bed and breakfast establishments.
5. Such other conditions deemed to be reasonable and necessary by the planning commission.

ARTICLE 7

ELDERLY HOUSING OVERLAY DISTRICT (EH-O)

Sections:

- 7-1 Intent
- 7-2 Eligibility
- 7-3 Permitted Uses
- 7-4 Minimum Safety Regulations
- 7-5 Parking Regulations
- 7-6 Height, Area and Yard Regulations
- 7-7 Other Regulations

SECTION 7-1 INTENT

7-101. The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Elderly Housing Overlay District (EH-O). This residential district is intended to provide appropriate sites for the development of elderly housing opportunities and related facilities in locations convenient to public facilities, shops and other needs of its senior citizens, within the R-1, R-2 and R-3 districts. The densities allowed in the district should provide for adequate light, air, privacy and open space for passive recreation and landscaped amenities. In addition, such developments in this zone should contain ample-sized meeting rooms and recreational facilities for the comfort and convenience of the occupants. This zone is designed to provide for the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons. The principal use of land may be for one or several building types ranging from elderly housing, congregate living facilities, residential retirement developments, life care facilities for elderly people and nursing homes.

SECTION 7-2 ELIGIBILITY

7-201. Housing which qualifies for inclusion in this zone is development providing living units specifically designed for the needs of elderly persons. To qualify as elderly housing the housing units must be located within the R-1, R-2 or R-3 districts and the total number of units located in the Elderly Housing Overlay District must meet one of the following conditions:

- a. The units are intended for and solely occupied by persons 62 years of age or older per unit; or

- b. At least 80 percent of the units are intended for, and occupied by, at least one person over 55 years of age or older per unit; or
- c. A unit is occupied by the surviving member(s) of a household, regardless of age, if at least one person in the household met the age requirements of either subsections 7-201.a. or 7-201.b. of this Article, provided that person was a resident of the district at the time of that person's death; or
- d. A unit is occupied by the owner or management personnel, including a family, which has demonstrated an intent to provide housing for persons 55 years of age or older.

SECTION 7-3 PERMITTED USES

7-301. In the Elderly Housing Overlay District, no building, land or premises shall be used and no building or structures shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:

- a. Any use permitted in the underlying R-1, R-2 or R-3 districts;
- b. Nursing homes, rest homes, convalescent homes, congregate living facilities, residential retirement developments; and
- c. Accessory buildings and uses, which are customarily incidental to providing on-site services for residents and guests of the developments in the Elderly Housing Overlay District.

SECTION 7-4 MINIMUM SAFETY REGULATIONS

7-401. All structures shall be constructed to the following minimum safety standards:

- a. An accessible route into and through the dwelling.
- b. All doors shall be of sufficient width to accommodate wheel chairs.
- c. All areas of public use shall have doors of sufficient width to accommodate wheel chairs.
- d. Wherever steps are located, ramps or elevators shall be provided in addition.
- e. Cooking units shall have no open flame.

- f. Emergency signal facilities shall be provided in each residential unit and shall register a signal at a central location.
- g. Electric outlets shall be located at least 24 inches above floor level; in general, light switches, electrical outlets, thermostats and other environmental controls shall be located in accessible locations.
- h. Grab bars shall be located around all tubs and showers.
- i. Toilet areas shall be adaptable for the installation of grab bars; in general, the structure shall have reinforcements in bathroom walls to allow later installation of grab bars.
- j. All floor surfaces shall be nonskid.
- k. Central heating and air conditioning units shall be individually adjustable for each residential unit.
- l. Usable kitchens and bathrooms shall be constructed such that an individual in a wheelchair can maneuver about the space.

7-402. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of this section, unless a more specific standard applies.

7-403. A storm shelter may be required by the Governing Body to be provided in a central location and shall have a capacity capable of sheltering all residents of the Elderly Housing Overlay District. Determination of necessary capacity shall be made by the Zoning Administrator.

SECTION 7-5 PARKING REGULATIONS

7-501. Parking Space Minimum Requirements:

- a. One parking space per separate dwelling unit;
- b. One parking space per six dwelling units for guest parking;
- c. One parking space per three non-resident employees on the maximum working shift;
- d. One parking space for each 50 square feet of floor area used for assembly or recreation in the building;

- e. One parking space for each 100 square feet of gross floor area in the building used for a restaurant exclusive of the area used for utilities and building service;
- f. One parking space for each 100 square feet of floor space in the building used for retail trade, or used by the public, whichever is greater.

SECTION 7-6 HEIGHT, AREA AND YARD REGULATIONS

7-601. Height. Buildings or structures shall not exceed forty-five (45) feet and/or three (3) stories in height.

7-602. Yards.

- a. *Front Yard:* The depth of the front yard shall be at least twenty-five (25) feet.
- b. *Side Yard:* There shall be a side yard of at least ten (10) feet on each side of a dwelling. All detached accessory buildings shall provide a minimum side yard of at least ten (10) feet.
- c. *Rear Yard:* The depth of the rear yard shall be at least thirty (30) feet. All detached accessory buildings shall provide a minimum rear yard of at least thirty (30) feet.

7-603. Lot Dimensions. The minimum width of a lot shall be sixty (60) feet on an interior lot and seventy (70) feet on a corner lot. The minimum depth of a lot shall be three hundred (300) feet. Lots fronting a cul-de-sac with at least a forty (40) foot radius must have width at the front lot line of not less than twenty-five (25) feet.

7-604. Lot Area Per Dwelling Unit:

- a. Single Unit: 5,400 sq. ft.
- b. Two Units: 2,700 sq. ft.
- c. Three or more Units: 1,800 sq. ft.

7-605. Minimum District Size. The minimum district size shall be two (2) acres.

SECTION 7-7 OTHER REGULATIONS

7-701. Additional standards required of developments in the EH-O District are:

- a. All development of structures shall occur in conformance with an approved plan of development showing the phases of construction.

ARTICLE 8

PUBLIC USE DISTRICT (P)

Sections:

- 8-1 Intent**
- 8-2 Permitted Uses**
- 8-3 Parking Regulations**
- 8-4 Sign Regulations**
- 8-5 Height, Area and Yard Regulations**

SECTION 8-1 INTENT

8-101. The "P" Public Use District is intended for application to sites in public ownership and used for major public facilities.

SECTION 8-2 PERMITTED USES

8-201. Any activity of a governmental, civic or public institutional nature, when located on lands in city, county, state or federal ownership, is permitted use in the P District. Primary public used include, but are not limited to:

- a. Armories
- b. Athletic complexes
- c. Auditoriums
- d. Cemeteries, public and private
- e. City halls
- f. Civic and community buildings
- g. Courthouse
- h. Fairgrounds
- i. Generating plants

- j. Hospitals
- k. Libraries
- l. Museums
- m. Parks and public recreational facilities
- n. Post offices
- o. Public safety buildings, including jails
- p. Public schools, including business, technical, trade or vocational schools
- q. Water and wastewater treatment plants
- r. Zoos

SECTION 8-3 PARKING REGULATIONS

8-301. Parking regulations for the P District are set out in Article 22.

SECTION 8-4 SIGN REGULATIONS

8-401. Except for identification signs not exceeding thirty-two (32) square feet in area, all signs shall be approved by the Planning Commission after public hearing and notification of all property owners within two hundred (200) feet of the property in question. Additional sign regulations relating to the P District are set out in Article 27.

SECTION 8-5 HEIGHT, AREA AND YARD REGULATIONS

8-501.

- a. Height.
 - 1. For any structure located within one hundred (100) feet of any residential district (R-1: R-3, MP and MHS), the maximum height of the nearest residential district shall apply. There shall be no height requirement for structures more than one hundred (100) feet from such residential district.

b. Yard.

1. *Front yards:* There shall be no setbacks required, except yards adjacent to arterial or collector streets shall comply with Article 24, and yards adjacent to a residential district (R-1:R-3, MP and MHS) shall have a setback equal to the setback of such adjoining residential district.
2. *Side and rear yards:* No side or rear yard shall be required, except where such use abuts a residential district (R-1: R-3, MP and MHS) there shall be a minimum of ten (10) feet side and/or rear yard.

ARTICLE 9

COMMERCIAL ZONED DISTRICTS (C-1, C-2, C-3)

Sections:

- 9-1 Intent**
- 9-2 Commercial Zoning Districts**
- 9-3 Permitted and Conditional Uses**
- 9-4 Intensity of Use**
- 9-5 Height and Yard Regulations**
- 9-6 Development Standards**
- 9-7 Sign Regulations**
- 9-8 Parking Regulations**
- 9-9 Off-Street Loading and Unloading Regulations**
- 9-10 Supplemental Regulations**
- 9-11 Travel Trailer Parks**
- 9-12 Site Plans**

SECTION 9-1 INTENT

9-101. It is the intent of the commercial zoning districts to provide for areas of compatible commercial and service businesses.

SECTION 9-2 COMMERCIAL ZONING DISTRICTS

9-201. The following commercial zoning districts are hereby created: C-1, Office and Service Business District; C-2, Restricted Commercial District; C-3, General Commercial District; and C-4 Central Business District. Additional C-4 Central Business District regulations are set out in Article 10.

SECTION 9-3 PERMITTED AND CONDITIONAL USES

9-301. In the commercial zoning districts, the uses listed in Table 9-1 within the designated zoning districts are permitted uses or conditional uses when so designated. Conditional uses require the issuance of a Conditional Use Permit in accordance with the provisions of Article 26.

No building or land shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses indicated in the following Table 9-1.

TABLE 9-1
Commercial Zoned Districts
Permitted and Conditional Uses

P = Indicates Permitted Uses
C = Indicates Conditional Uses

Use		C-1	C-2	C-3	C-4
1.	Ambulance service.	P	P	P	P
2.	Amusement places, indoor.			P	P
3.	Animal hospitals.			P ⁽¹⁾	P ⁽¹⁾
4.	Any public building or land use by any department of the City, County, State or Federal government.	C	C	C	C
5.	Artists, authors, composers, studios and galleries.	P	P	P	P
6.	Auditoriums, exhibition halls, fairgrounds, stadiums and similar uses.			P	P
7.	Automobile wash services.			P	P
8.	Bowling alleys.		C	P	P
9.	Churches, similar places of worship.	P	P	P	P
10.	Convenience stores.		P ⁽²⁾	P	P
11.	Day care facilities: child care centers, day care homes, family day care homes, group day care homes and preschools.	P	P	P	P
12.	Dry cleaners-laundries, including self-service.			P	P
13.	Dwellings: a. When dwelling unit(s) located on ground floor of commercial structure, such must not exceed 50% of structure's floor area.	C		C	P
	b. When dwelling unit(s) located on other than ground floor of commercial structure.	P		P	P
14.	Electric-telephone substations.		P	P	P
15.	Food catering service, lockers-storage.			P	P
16.	Fraternal-civic-social organizations.	P	P	P	P
17.	Funeral, crematory and mortuary services.		P	P	P
18.	Furniture repair, upholstering.			P	P
19.	Garden supplies-nurseries, greenhouses.			P	P

TABLE 9-1

Use		C-1	C-2	C-3	C-4
20.	Golf driving ranges.			C	C
21.	Health and exercise spas, gymnasiums.	P	P	P	P
22.	Hospitals, clinics, laboratories.	P	P	P	P
23.	Hotels-motels.		C	P	P
24.	Industrial laundry and linen supply services.			C	C
25.	Kennels-boarding and breeding.			C	C
26.	Miniature golf.		P	P	P
27.	Mini-storage, self-storage.		C	C	C
28.	Mobile home sales.			P	P
29.	Monument sales.			P	P
30.	Motor vehicle repair.			P ⁽³⁾	P ⁽³⁾
31.	Motor vehicle body shop, provided all work shall be performed and all materials shall be stored within an enclosed building.			C	C
32.	Nursing homes, rest homes, convalescent homes and similar facilities	P	P	P	P
33.	Offices: professional-business-educational-industrial-religious-philanthropic-public	P ⁽⁴⁾	P	P	P
34.	Printing, including newspaper publishing.			P	P
35.	Private clubs.		P ⁽⁵⁾		P ⁽⁵⁾
36.	Race track and courses-vehicle and animal.			C	C
37.	Radio and television broadcasting studios (without transmission towers).	P	P	P	P
38.	Radio or television broadcasting studios (with transmission towers).		P	P	P
39.	Radio, television or telephone transmitting station or towers, subject to further regulations set out in Article 12.		C	C	C
40.	Recreation centers.			P	P
41.	Recreational vehicles-trailers, equipment sales.			P	P

TABLE 9-1

Use		C-1	C-2	C-3	C-4
42.	Research-development-testing.			P	P
43.	Restaurants.		P	P	P
44.	Retail sales and rental of goods and merchandise including, but not limited to: antiques; apparel; appliances; bakeries; bicycles; books and stationery; building materials; carpet and other floor coverings; cigarettes; clocks; farm machinery and supplies; food and groceries; furniture; hardware; heating, plumbing, and air conditioning equipment; jewelry; liquor; musical instruments; motor vehicles, parts and supplies; pet shops; pharmacies, photographic supplies and cameras; office equipment and supplies; and service stations.	P	P	P	P
45.	Retail sales of services including, but not limited to: banks; barber and beauty shops; building contractors, including air-conditioning, heating, plumbing and electrical; cleaning and repair; diaper services; interior decorating; lawn care and landscaping; locksmith; message service; outdoor advertising; pet grooming; photocopying and blueprinting; and stenographic, duplicating and mailing services.	P	P	P	P
46.	Schools: a. Public and private elementary schools.	C	C	C	C
	b. Public and private secondary schools.	C	C	C	C
	c. Postsecondary educational institutions.	P	P	P	P
	d. Business & training / vocational schools.	C	C	P	P
47.	Storage or warehousing, except for products of a highly explosive, combustible or volatile nature.			C	C

TABLE 9-1

Use		C-1	C-2	C-3	C-4
48.	Taverns, bars and drinking establishments.			P ⁽⁵⁾	P ⁽⁵⁾
49.	Telephone exchanges, electrical substations, cable T.V. or similar public utility uses.	C		C	C
50.	Theaters, indoor.		P	P	P
51.	Theaters, outdoor.			C	C
52.	Travel trailer parks.			C ⁽⁶⁾	
53.	Truck wash services.			C	C
54.	Wholesale establishment.			C	C

Permitted and conditional uses footnotes:

1. Providing all services, runs and pens are within an enclosed building.
2. Including the self-service dispensing of gasoline and related petroleum products, providing there is no motor vehicle repair or service.
3. Provided all work shall be performed within an enclosed building.
4. Provided that no goods wares or merchandise shall be prepared for sale or sold on the premises.
5. Provided not located within 200 feet of a church, school or hospital.
6. Subject to requirements set out in Section 9-11.

SECTION 9-4 INTENSITY OF USE

9-401.

- a. No new commercial zone shall be created unless such tract proposed to be so zoned is an extension of an adjacent commercial zone or contains at least ten thousand (10,000) square feet of area.
- b. Structures shall not cover more than forty (40) percent of the total lot area in the C-1, C-2 or C-3 zoning districts. Total lot area shall include all spaces open to the public including sidewalks and courtyards.

SECTION 9-5 HEIGHT AND YARD REGULATIONS

9-501.

- a. *Height:* Except as otherwise provided in Article 20, no building or structure shall exceed forty-five (45) feet in height in the C-1, C-2 or C-3 zoning districts.
- b. *Yard:* Front, side and rear yards shall comply with Table 9-2. Additional yard regulations are set out in Section 20-2.

TABLE 9-2

<i>District</i>	<i>Front Yard (1)</i>	<i>Side Yard</i>	<i>Rear Yard (2)</i>
C-1	25 ft.	5 ft. – 1 or 2 stories 8ft. – 3 stories	25 ft.
C-2	0	0	25 ft. where property adjoins any residential-zoned district.
C-3	0	0	25 ft. where property adjoins any residential-zoned district.

(1) Front yards adjacent to arterial or collector streets shall comply with Article 24.

(2) There shall be a thirty (30) foot rear yard for structures of three (3) stories or more in all zones.

SECTION 9-6 DEVELOPMENT STANDARDS

9-601.

- a. C-1 zoning district: All business, storage, service of goods shall be located completely within an enclosed structure.
- b. C-2, C-3 zoning districts: All outdoor storage shall be screened from public view by at least ninety percent (90%) density screening, unless such goods are for resale to the public.

- c. All commercial zones: Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, must be located at least twelve (12) feet from any property line.

SECTION 9-7 SIGN REGULATIONS

9-701. Sign regulations for the commercial districts are set out in Article 27.

SECTION 9-8 PARKING REGULATIONS

9-801. Parking regulations for the commercial districts are set out in Article 22.

SECTION 9-9 OFF-STREET LOADING AND UNLOADING REGULATIONS

9-901. Off-street loading and unloading regulations for the commercial districts are set out in Article 23.

SECTION 9-10 SUPPLEMENTAL REGULATIONS

9-1001. Supplemental regulations for the commercial districts are set out in Article 20.

SECTION 9-11 TRAVEL TRAILER PARKS

9-1101. Definition. As used in this article, the term travel trailer park means a campground for travel trailers, motor homes, camping trailers, recreational vehicles, camping tents and accessory service buildings and facilities for campgrounds.

9-1102. Were Permitted. A travel trailer park shall be allowed to locate only in the C-3 District and only upon issuance of a Conditional Use Permit issued in accordance with the provisions of this Article and Article 26.

9-1103. General Requirements.

- a. Any tract of land permitted as a travel trailer park after the effective date of these regulations must be at least five (5) acres in area.
- b. The applicant for a conditional use permit for a travel trailer park shall prepare and submit a schedule of construction, which shall provide for commencement of construction within a period of one (1) year following the approval of the permit by the Governing Body, and which shall provide that construction shall be completed within a period of two (2) years.

- c. The applicant shall prepare or cause to be prepared a development plan and shall present five (5) copies of said plan for review by the Planning Commission and Governing Body. This plot plan shall show the proposed development and shall conform with the following requirements:
1. The travel trailer park shall be located on a well-drained site that is not subject to objectionable noise, smoke, odors, or other objectionable influences including unpredictable or sudden flooding. Exposed ground surfaces in all parts of the park shall be paved, covered with stone or other solid materials or protected with a vegetative growth capable of preventing and eliminating dust.
 2. Travel trailer parks shall have a maximum density of twenty (20) trailer spaces per acre. A minimum of one thousand two hundred fifty (1,250) square feet shall be provided for each trailer space.
 3. Each travel trailer space shall be at least twenty (20) feet wide and fifty (50) feet deep and shall have a clearly defined or marked border.
 4. Trailers shall be placed on each space so that there is at least a ten (10) foot clearance between trailers. No trailer or other structure shall be located closer than twenty (20) feet from any building within the park or from any property line surrounding the park, except where such property line is a public street. No trailer or other structure shall be located closer than twenty-five (25) feet from any public street.
 5. All parks shall be provided with safe and convenient vehicular access to each trailer space. Surfacing and maintenance shall provide a smooth, hard and dense surface which should be well drained and shall meet the following requirements:
 - (a) One-way, no parking, 15-foot width.
 - (b) One-way, parking on one side only, 20-foot width.
 - (c) Two-way, no parking, 24-foot width.
 - (d) Two-way, parking on one side only, 27-foot width.
 - (e) Two-way, parking on both sides, 30-foot width.
 6. All roadways and walkways within the travel trailer park shall be hard-surfaced and adequately lighted at night with electric lamps.
 7. A recreation area shall be provided at a central location in the park. The size of such recreation area shall be no less than two hundred (200) square feet for each trailer space in the park.

8. A solid or semi-solid fence, wall, or evergreen hedge six (6) feet in height and having a visual density of at least ninety (90) percent shall be installed and maintained by the owner when the district abuts a residential, or mobile home subdivision zoning district except that said fence, wall, or hedge shall be reduced to forty-two (42) inches in height when located in a front yard. A district shall not be considered as abutting if it is separated by a street or alley right-of-way.
9. One dwelling unit which may be a mobile home may be permitted on the site for the park operator.
10. Travel trailer spaces shall be rented by the day or week only, and the occupant of a travel trailer space shall remain in the same travel trailer park area no more than thirty (30) days.
11. A properly ventilated and constructed storm shelter shall be provided in a central or other convenient location within the travel trailer park. Each shelter size shall be equal to at least 21 square feet of shelter floor area per travel trailer space. Storm shelters shall be constructed in accordance with all applicable City-adopted building codes.

9-1104. Water Supply. An accessible, adequate, safe and potable supply of water shall be provided in each travel trailer park. Where a public supply of water is available, connection shall be made thereto and its supply used exclusively. The public health agency having jurisdiction shall approve all private sources of water.

9-1105. Sewage Systems. An approved sewage system shall be provided within each travel trailer park. Where a public sewage system is located within 500 feet of the boundary of the park, connection shall be made thereto. The appropriate health authority shall approve all private sewage systems. A sanitary disposal station shall be provided at the rate of one such station for every hundred (100) trailer spaces and shall be approved by the zoning administrator. Such stations shall be screened from other activities by visual barriers such as fences, walls, or natural growth and shall be separated from any trailer or adjoining property by a distance of at least fifty (50) feet.

9-1106. Electrical. Electrical wiring systems shall be installed in accordance with applicable City-adopted electrical codes. Main power lines not located underground shall be suspended at least eighteen (18) feet above the ground. There shall be a minimum of eight (8) feet of vertical clearance between any trailer and the overhead wiring.

9-1107. Service Buildings.

- a. A central service building containing the necessary toilet and other plumbing fixtures specified below shall be provided in travel trailer parks having camping spaces for units which do not have self-contained water and sewage systems. Such service buildings shall be located within a three hundred (300) foot radius of the spaces to be served

<i>Number of Spaces</i>	<i>Toilets</i>		<i>Urinals</i>	<i>Lavatories</i>		<i>Showers</i>		<i>Service Sink</i>
	<i>M</i>	<i>F</i>	<i>M</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	
<i>1 - 15</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>1</i>
<i>16 - 30</i>	<i>1</i>	<i>2</i>	<i>1</i>	<i>2</i>	<i>2</i>	<i>1</i>	<i>1</i>	<i>1</i>
<i>31 - 45</i>	<i>2</i>	<i>2</i>	<i>1</i>	<i>3</i>	<i>3</i>	<i>1</i>	<i>1</i>	<i>1</i>
<i>46 - 60</i>	<i>2</i>	<i>3</i>	<i>2</i>	<i>3</i>	<i>3</i>	<i>2</i>	<i>2</i>	<i>1</i>
<i>61 - 80</i>	<i>3</i>	<i>4</i>	<i>2</i>	<i>4</i>	<i>4</i>	<i>2</i>	<i>2</i>	<i>1</i>
<i>81 - 100</i>	<i>3</i>	<i>4</i>	<i>2</i>	<i>4</i>	<i>4</i>	<i>3</i>	<i>3</i>	<i>1</i>

- b. Parks having more than one hundred (100) travel trailer spaces shall also provide: One additional toilet and lavatory for each sex for each additional forty (40) travel trailer spaces or fraction thereof; and one (1) additional men's urinal for each additional one hundred (100) travel trailer spaces or fraction thereof.
- c. Where a travel trailer park is designed for and exclusively limited to use by camping units with self-contained water and sewage systems, only the following minimum sanitary facilities shall be required: For each one hundred (100) trailer spaces or fractional part thereof, there shall be one (1) flush toilet, one (1) lavatory, and one (1) shower for each sex.

9-1108. Solid Waste. The storage, collection and disposal of refuse in the travel trailer park shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. All refuse shall be stored in fly tight, watertight, rodent-proof containers, which shall be located not more than one hundred fifty (150) feet from any trailer space. All refuse shall be collected at least twice weekly.

9-1109. Open Fires. Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained and used as to minimize fire hazard and smoke nuisance both on the property on which used and on neighboring properties. No open fire shall be permitted, except in facilities provided by the park operator. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

9-1110. Register of Occupants. It shall be the duty of the park operator to keep a register containing a current record of all trailer owners and occupants located within the park. The register shall contain the following information:

- a. The name and address of each trailer owner or tenant.
- b. The name and address of each owner of a motor vehicle.
- c. The date of arrival and departure of each trailer.
- d. The license tag number of each motor vehicle.

The park owner, manager or caretaker shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register.

SECTION 9-12 SITE PLANS

9-1201. Site plan approval may be required of commercial development prior to the issuance of a building permit. Requirements for such site plans and the procedure for site plan review and approval are set out in Article 28.

ARTICLE 10

CENTRAL BUSINESS DISTRICT (C-4)

Sections:

- 10-1 Intent**
- 10-2 Use Regulations**
- 10-3 Parking Regulations**
- 10-4 Height, Area and Yard Regulations**
- 10-5 Sign Regulations**

SECTION 10-1 INTENT

10-101. The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the C-4 Central Business District. This district includes the commercial uses in the central business district which provide the major focus of retail, government and business services facilities for the entire community.

SECTION 10-2 USE REGULATIONS

10-201. In the Central Business District, no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:

- a. Unless otherwise expressly restricted, any permitted use in the C-1, C-2 or C-3 zoning districts and, upon the issuance of a conditional use permit, any use allowed as a conditional use in the C-1, C-2 or C-3 zoning districts.
- b. Accessory buildings and uses customarily incidental to the above uses, provided there shall be no manufacture, processing or compounding of products other than such that are customarily incidental and essential to such permitted use. Accessory buildings and uses shall be constructed in a style and manner similar to a principal building or use.
- c. If such land placed in this district is adjacent to a district in which single-family residences are a permitted use, no article or material stored or offered for sale in connection with uses permitted above shall be stored or displayed outside the building unless it is so screened by permanent ornamental walls, fences or plantings that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level. No screening in excess of seven (7) feet in height shall be required.

SECTION 10-3 PARKING REGULATIONS

10-301. No off-street parking spaces need be provided for property located in the C-4 District.

SECTION 10-4 HEIGHT, AREA AND YARD REGULATIONS

10-401. Height. Buildings or structures shall not exceed forty-five (45) feet or three (3) stories in height.

10-402. Yards. There are no minimum yards in the C-4 District.

10-403. Lot Dimensions. The minimum width of a lot shall be twenty-two (22) feet. The minimum depth of a lot shall be fifty (50) feet.

10-404. Maximum Lot Coverage. A building, structure or use may occupy 100 percent (100%) of the zoning lot. No awning, canopy or marquee completely supported by the building or structure may project more than maximum of six (6) feet beyond the front property line.

10-405. Exemption from Fencing and Landscaping Requirements: If a structure occupies the entire lot of record or zoning lot, no landscaping or screening otherwise required by these zoning regulations shall be necessary.

SECTION 10-5 SIGN REGULATIONS

10-501. Sign regulations for the C-4 District shall be the same as set out in Article 27 for the C-3 District.

**ARTICLE 11
(RESEVED)**

ARTICLE 12

TELECOMMUNICATIONS TOWERS

Sections:

- 12-1 Telecommunications Towers; Permits**
- 12-2 Fencing and Screening**
- 12-3 Setbacks and Landscaping**
- 12-4 Security**
- 12-5 Access**
- 12-6 Maintenance**
- 12-7 Design**
- 12-8 Consideration of Conditional Use Permit**
- 12-9 Filing Requirement**
- 12-10 Revocation of Permit**
- 12-11 Transfer of Permit**
- 12-12 Abandonment of Tower**

SECTION 12-1 TELECOMMUNICATIONS TOWERS; PERMITS

12-101. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances may be allowed pursuant to issuance of a Conditional Use Permit, when such conditional use is provided for in the relevant district regulations subject to the following requirements:

- a. Applicant shall present satisfactory proof that the proposed location and use is reasonably necessary.
- b. None of the above uses shall be required to comply fully with the lot size and height regulations of the zoning district in which they are located except as may be required by the conditions imposed upon the applicant.
- c. Such structures must be set back from all adjacent property lines and streets a distance equal to not less than its height plus fifty (50) feet, provided, however, the Zoning Administrator may approve a shorter distance reasonably necessary to protect adjoining property and public safety.
- d. Applicant must document that no co-location on an existing tower or other structure exists within five (5) miles of the proposed location is feasible or that efforts were

made to locate on existing towers or other structures but such efforts were not successful.

Documentation of this requirement shall be placed in the record by affidavit of applicant or intended user of the tower, who shall also submit a tower propagation map for a geographic area determined by the Zoning Administrator. At the request of the Planning Commission additional evidence in the form of testimony may be required from applicant or intended user of the tower.

- e. All proposed communication towers 150 feet or less in height, not including lightning rod, shall be designed to accommodate at least one (1) additional PCS/Cellular or other similar platform. All proposed communication towers in excess of 150 feet shall be designated to accommodate at least two (2) additional PCS/Cellular or other similar platforms.
- f. Any application for a proposed tower in excess of 150 feet in height shall include documentation regarding the necessity for the proposed height from a licensed professional engineer. Such documentation shall be in the form of an affidavit acceptable to the Planning Commission and signed by said engineer. At the request of the Planning Commission additional evidence in the form of testimony may be required from said engineer.
- g. The tower and accessory equipment must meet all requirements of the Federal Aviation Administration. To the extent allowed by such requirements, any required lighting for such tower shall be red during time of darkness.
- h. No permit shall be approved for a term in excess of five years. Six months prior to the end of the term of the approved permit the Planning Commission shall hold a public hearing on the renewal of the permit, unless at such time the permit holder advises the Zoning Administrator, in writing, that a renewal of the permit is not desired. At such hearing the Planning Commission will make findings as to: (1) the permit holder's compliance with the terms and conditions of the permit; (2) requests that have been accepted and rejected by the permit holder for co-location on the subject tower; and (3) whether any change in circumstance or condition relative to the tower and/or the surrounding neighborhood requires reconsideration of any of the factors for consideration set out at 12-801 of these regulations.

SECTION 12-2 FENCING AND SCREENING

12-201. Security fences must be constructed around or upon parcels containing towers and similar structures. Screening is not required of towers.

SECTION 12-3 SETBACKS AND LANDSCAPING

12-301. All landscaping on parcels containing towers or similar structures shall be in accordance with the applicable setback requirements in the zoning district where the tower or similar structures are located. Existing vegetation shall be maintained to the extent possible. The Governing Body may require additional landscaping as part of the Conditional Use Permit if to do so would make the tower or similar structures more compatible with the surrounding area.

SECTION 12-4 SECURITY

12-401. All towers must be secured to protect against trespass or unauthorized use of the property, tower or similar structures.

SECTION 12-5 ACCESS

12-501. All parcels upon which towers are located must provide access to at least two (2) vehicular parking spaces located within one-hundred (100) feet of the tower.

SECTION 12-6 MAINTENANCE

12-601.

- a. Permittees shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- b. Permittees shall install and maintain towers, telecommunications facilities, wire, cables, fixtures and other equipment in compliance with the requirements of the adopted electrical code of the City.
- c. All towers, telecommunications facilities and similar structures shall at all times be kept and maintained in good condition, order, and repair so as not to menace or endanger public health or safety.

SECTION 12-7 DESIGN

12-701. All permittees shall make every reasonable effort to design and construct new towers and similar structures to blend into the character and environment of the area in which they are located, including the use of camouflage techniques and side mounting antennas.

SECTION 12-8 CONSIDERATION OF CONDITIONAL USE PERMIT

12-801.

- a. Except as hereinafter otherwise provided a Conditional Use Permit application for a telecommunication tower shall be subject to the same procedures for consideration and action as applies to any other Conditional Use Permit application pursuant to Article 26 of these regulations.
- b. In lieu of the factors for consideration of a Conditional Use Permit application under 26-109 of these regulations, the Planning Commission may recommend approval of a Conditional Use Permit, and the Governing Body may approve such permit for a telecommunications tower, using the following factors as guidelines:
 1. Whether approval of the conditional use would be consistent with the intent and purpose of, and meets the requirements of, these regulations;
 2. The aesthetic impact of the proposed telecommunications tower on the surrounding neighborhood;
 3. Whether the relative gain to the public health, safety and general welfare outweighs the hardship imposed upon the applicant by not granting the permit;
 4. Whether the positions of the applicant and/or the opponents are substantiated by substantial competent evidence or rather generalized concerns or unsubstantiated claims are made to the Planning Commission and/or Governing Body;
 5. Whether an F.C.C. license has been granted to the applicant authorizing provision of wireless services to the community and whether radio frequency emissions will comply with F.C.C. regulations;

6. Whether there is an existing tower upon which the applicant can co-locate and if so, what substantiated efforts have been made by applicant for co-location and upon what basis were any such towers deemed unacceptable by the applicant;
 7. Will the tower adversely impact adjoining property values, present a hazard to air space, negatively impact the environment, traffic or in any other manner create negative impacts upon the neighborhood or community;
 8. The recommendation of professional planning staff;
 9. The expert testimony presented on behalf of and in opposition to the application; and
 10. Such other factors as may be relevant to the facts and evidence presented in the application.
- c. Consideration of an application for a Conditional Use Permit for a telecommunications tower shall be considered and acted upon by the Planning Commission and Governing Body in adherence to the limitations upon local authorities set out in the National Wireless Telecommunications Siting Policy, Section 332(c), 47 U.S.C. 332(c) which provides in part that the regulation of the placement, construction and modification of personal wireless service facilities by a local government shall not unreasonably discriminate among providers of functionally equivalent services; and shall not prohibit nor have the effect of prohibiting the provision of personal wireless services. Further, the siting policy provides that a local government shall act on any request for authorization to place, construct or modify personal wireless service facilities within a reasonable period of time after the request is duly filed, taking into account the nature and scope of such request. Further that any decision by a local government to deny a request to place, construct or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record. And further that no local government may regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the F.C.C.'s regulations concerning such emissions.

SECTION 12-9 FILING REQUIREMENT

12-901. A permittee shall certify in writing that its tower is structurally sound and conforms to the requirements of the applicable state law and all other construction standards set forth by the local, federal and state law every three years by filing, by January 1st of every fifth year following the

date of the grant of its tower permit, a sworn statement by the permittee to that effect. All permittees or owners of towers in existence on the effective date of these regulations shall submit a statement by March 1, 2001, and by January 1st every five years thereafter that said tower is free from hazards and that the tower does not pose an imminent threat to the surrounding area or public health and safety. Together with this statement every permittee shall provide a certificate of liability insurance for not less than \$500,000.00 coverage for injury to persons or property as a result of any tower failure or malfunction or defect. Permittee shall list the Zoning Administrator as a party who must be notified should this insurance be canceled or discontinued for any reason, thirty (30) days before the expiration of coverage.

SECTION 12-10 REVOCATION OF PERMIT

12-1001. The Governing Body may at any time revoke a permit for failure to comply with the provisions of these regulations. To properly revoke a permit, the Governing Body must comply with the procedures set forth below:

- a. The Governing Body shall provide permittee with written notice of a cause for revocation and the intent to revoke and shall allow permittee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance. Together with the notice required herein, the Governing Body shall provide permittee with written findings of fact which are the basis of the revocation.
- b. The Governing Body shall provide the permittee with the right to a public hearing before the Governing Body which public hearing shall follow sixty (60) day notice. All interest parties shall be allowed an opportunity to be heard at the public hearing and present evidence.
- c. Within thirty (30) days after the public hearing date the Governing Body shall issue a written order setting forth its findings of fact and conclusions of law forming the basis for its decision.
- d. Upon written determination by the Governing Body to revoke a permit, the permittee may appeal the decision to a court of competent jurisdiction.
- e. Upon permittee's failure to correct a violation, the Governing Body may issue an order to disconnect utilities to said tower to any utility company providing same. Said order shall not be issued prior to thirty (30) days from the date of the Governing Body's written determination. Said order shall be served upon the chief executive officer thereof, together with the permittee at the last known address, and have attached to it the findings of the Governing Body.

SECTION 12-11 TRANSFER OF PERMIT

12-1101. A tower permit may not be sold, transferred, leased or assigned by any other person without the consent of the Governing Body, such consent not to be unreasonably withheld.

SECTION 12-12 ABANDONMENT OF TOWER

12-1201.

- a. In the event the use of any tower has been discontinued for a period of one (1) year, or in the event that a permittee has taken no action within one-hundred eighty (180) days after the revocation of a tower permit, such tower shall be deemed abandoned.
- b. The Governing Body shall provide the tower owner three (3) months notice and an opportunity to be heard by the Governing Body, before initiating an abandonment action.

ARTICLE 13

MANUFACTURED HOME PARK DISTRICT (MP)

Sections:

- 13-1 Intent**
- 13-2 Permitted Uses**
- 13-3 Conditional Uses**
- 13-4 Home Occupations**
- 13-5 Accessory Uses**
- 13-6 General Requirements**
- 13-7 Specific Requirements**
- 13-8 Application for Preliminary Approval**
- 13-9 Final Plan**
- 13-10 Deviation from Final Plan**
- 13-11 Discontinuance of Use as a Manufactured Home Park**
- 13-12 Sign Regulations**
- 13-13 Parking Regulations**
- 13-14 Visible Lot Numbers**
- 13-15 Recreational Vehicles**

SECTION 13-1 INTENT

13-101. The intent of the MP District is to provide low density manufactured home park developments which are compatible with the character of the surrounding neighborhood in which they are located. Manufactured home parks are residential uses and should be located in areas where services and amenities are available such as those found in residential areas comprised of site-built houses.

SECTION 13-2 PERMITTED USES

13-201. In the MP District no building land or premises shall be used and no building or structures shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:

- a. Manufactured homes, including residential design manufactured homes.
- b. Public park and recreation areas.
- c. One single-family dwelling for use of the manufactured home park operator, provided that the dwelling meets all lot area and setback requirements as if it were in the R-1, Low Density Residential District.
- d. Modular homes.

SECTION 13-3 CONDITIONAL USES

13-301. In the MP District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 26:

- a. Any public building or land used by any department of the city, county, state or federal government.
- b. Churches, synagogues and other similar places of worship.
- c. Telephone exchange, electric substations, cable television or other similar utilities.
- d. Public or private schools, elementary and secondary.

SECTION 13-4 HOME OCCUPATIONS

13-401. Regulations relating to home occupations in the MP District are set out in Article 17.

SECTION 13-5 ACCESSORY USES

13-501. Regulations relating to accessory uses in the MP District are set out in Article 20, at Section 20-8.

SECTION 13-6 GENERAL REQUIREMENTS

13-601. The requirements of this section shall apply to all manufactured home parks established after the effective date of these regulations. The requirements of 13-603:605 shall apply to any expansions of manufactured home parks lawfully established prior to the effective date of these regulations. For purposes of this Article "expansion" means any increase in land area.

13-602. The tract to be used for a manufactured home park shall not be less than five (5) acres, unless it is an extension of an existing manufactured home park.

13-603. Manufactured homes shall be placed only on leased spaces.

13-604. Construction shall commence within a period of one year following the approval of the governing body of the final plan and shall be completed within a period of two (2) years. If construction is not completed within two (2) years, the applicant may request an extension from the Governing Body.

13-605. No manufactured home manufactured on or after September 1, 1973 shall be located, relocated, stored or parked in the MP District unless such home complies with the provisions of K.S.A. 75-1211:1234, and amendments thereto, and rules and regulations adopted thereunder. No manufactured home manufactured prior to September 1, 1973 shall be located, relocated, stored or parked in the MP District unless such home is in compliance with all applicable provisions of City-adopted building codes.

SECTION 13-7 SPECIFIC REQUIREMENTS

13-701. Except where otherwise expressly provided, the requirements of Section 13-7 shall apply to all manufactured home parks, whether operating prior to the effective date of these regulations or established thereafter.

13-702. Water. All manufactured home parks shall be connected to a public water supply. Individual water service connections shall be provided at each manufactured home space and the size, location and installation shall be in accordance with the applicable plumbing code.

13-703. Sewage disposal. All manufactured home parks shall be connected to a public sewage disposal system where such public sewer is within 500 feet of the boundary of the MP District. The individual sewage connections shall be provided at each manufactured home space and the size, location and installation shall be in accordance with the applicable plumbing code.

13-704. Community buildings and grounds. All community buildings and common grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition menacing the health of any occupant of the park or the public or constituting a nuisance.

13-705. Utilities. Electric, telephone and cable television service lines installed in manufactured home parks established or expanded after the effective date of these regulations shall be installed underground and shall be in accordance with city codes and utility company specifications.

13-706. Refuse and garbage. The park operator shall ensure that the storage, collection, and disposal of refuse in the park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accidents, fire hazards or air pollution. All refuse shall be stored in fly tight, watertight, rodent-proof containers in racks designed so as to prevent the containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them. Refuse and garbage shall be removed from the park at least once a week.

13-707. Blocking. All manufactured homes placed in a manufactured home park after the effective date of these regulations shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home and this blocking shall provide sixteen (16) inches by sixteen (16) inches bearing upon the stand.

13-708. Tie-downs and ground anchors. All manufactured homes shall be secured to the ground by tie-downs and ground anchors in accordance with the Mobile Home and Recreation Vehicle Code K.S.A. 75-1211 to 75-1234, and amendments thereto.

13-709. Skirting. Each manufactured home shall be provided with skirting on all sides and such material used as skirting shall be harmonious with the composition, color and texture of the material used in the construction of the manufactured home.

13-710. Location of improvements to manufactured home spaces. No paved patios, parking areas, accessory structures or other improvements made after the effective date of these regulations shall be located within eight (8) feet of the perimeter of any mobile home space.

SECTION 13-8 APPLICATION FOR PRELIMINARY APPROVAL

13-801. An applicant for zoning for the MP District after the effective date of these regulations shall prepare a preliminary manufactured home park plan, drawn to a scale of not less than one inch equals one hundred (100) feet, and five (5) copies of said plan shall be submitted to the Planning Commission for its review and recommendation. Said plan shall be designed in accordance with Section 13-6, General Requirements, and Section 13-7, Specific Requirements, shall have contours at two (2) foot intervals and shall conform with the following requirements:

- a. The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water.
- b. The park shall have a maximum density of eight (8) manufactured homes per gross acre and space shall be provided for each manufactured home consisting of a minimum of three thousand six hundred (3,600) square feet.
- c. Each manufactured home space shall be at least forty feet (40') wide and clearly defined.
- d. Manufactured homes shall be so located on each space that there shall be at least a twenty (20) foot clearance between manufactured homes; provided, however, that with respect to manufactured homes parked end-to-end, the end-to-end clearance shall be not less than fifteen (15) feet. No manufactured home shall be located closer than twenty-five feet (25') from any building within the park or from any property line bounding the park. No manufactured home park shall be located closer than ten feet (10') from any paved roadway.
- e. All manufactured home spaces shall front upon a private roadway of not less than twenty-seven (27) feet in width, which shall have unobstructed access to a public street. Thirty (30) feet of private roadway shall be required where parking is allowed

in the roadway.

- f. Walkways not less than thirty inches (30") wide shall be provided from the manufactured home spaces to service, community buildings or storm shelters.
- g. All roadways and walkways within the manufactured home park shall be surfaced with asphalt, concrete or asphaltic concrete and adequately lighted at night with electric lamps.
- h. Paved off-roadway parking shall be provided at the rate of two (2) spaces for each manufactured home space.
- i. A community building may be provided which may include recreation facilities, laundry facilities and other similar uses.
- j. A recreational area shall be provided at a central location in the manufactured home park at the minimum rate of two hundred (200) square feet for each manufactured home space but in no event shall an individual recreational area be less than five thousand (5,000) square feet.
- k. A properly ventilated and constructed storm shelter shall be provided in a central or other convenient location. Each shelter size shall be equal to at least twenty-one (21) square feet of shelter floor area per manufactured home space. Storm shelters shall be constructed in accordance with all applicable City-adopted building codes.
- l. A solid or semi-solid fence or wall and a ten (10) foot landscaped buffer area shall be provided between the manufactured home park and any adjoining residential zoning district. Said fence or wall shall not be less than four (4) feet high nor more than six (6) feet high and shall have a visual density of at least ninety (90) percent. The operator of the park shall be responsible for the maintenance of the fence or wall and the landscaped buffer area.
- m. Each manufactured home space shall be provided with a paved patio or equivalent, other than parking space, of not less than two hundred (200) square feet. No open storage of any unsightly material shall be permitted within the manufactured home park.

SECTION 13-9 FINAL PLAN

13-901. Upon approval of the preliminary plan by the Planning Commission, the applicant shall prepare and submit a final plan, which shall incorporate any changes or alterations requested by the planning commission. The final plan shall be reviewed by the Planning Commission and its recommendations shall be forwarded to the City Commission for review and approval. The final plan shall be filed and recorded with the Cloud County Register of Deeds as if it were a final

subdivision plat.

SECTION 13-10 DEVIATION FROM FINAL PLAN

13-1001. Any substantial deviation, as determined by the Zoning Administrator, from the approved final plan shall constitute a violation of the zoning approval. Substantial changes in the approved final plan must be resubmitted to the City Commission for its approval prior to any installation.

SECTION 13-11 DISCONTINUANCE OF USE AS A MANUFACTURED HOME PARK

13-1101. Whenever a manufactured home park ceases to be used for such purpose for a period of twenty-four (24) consecutive months, the Planning Commission shall initiate action and hold a public hearing to consider rezoning said property back to its former district classification or to a more appropriate district.

SECTION 13-12 SIGN REGULATIONS

13-1201. Sign regulations for the MP District are set out in Article 27.

SECTION 13-13 PARKING REGULATIONS

13-1301. Parking regulations for the MP District are set out in Article 22.

SECTION 13-14 VISIBLE LOT NUMBERS

13-1401. All manufactured home lots shall be clearly numbered with a permanent marker placed at the front of the lot line or on the street side of the manufactured home. All such numbers shall follow a consecutive numbering system for manufactured homes fronting on the same roadway. All such numbers shall be clearly visible and at least four (4) inches in height. The numbering system will be designated on the final plat of the manufactured home park and approved by the Planning Commission. It shall be the park operator's responsibility to ensure the numbering system is installed and maintained.

Section 13-15 Recreational Vehicles

13-1501 Recreational vehicles are allowed to be parked and occupied in the “MP” district provided all of the following conditions are met.

1. No more than ten (10) percent of the total number of manufactured home spaces are available for use as recreational vehicle leased spaces.
2. Manufactured home spaces used for recreational vehicle spaces shall adjoin one another and shall be screened from manufactured home spaces used for manufactured homes and from other adjacent residential districts by a solid or semi-solid fence, wall or evergreen hedge six (6) feet in height and having a visual density of at least ninety (90) percent.
3. Each recreational vehicle space shall be a minimum of twenty (20) feet wide by fifty (50) feet deep.
4. Ten (10) feet landscaped buffer zones shall be provided between the recreational vehicle spaces and the adjacent manufactured home spaces and any adjacent residential district. Screening shall not be required if the recreational vehicle spaces are separated from an adjacent area by a street.
5. Recreational vehicles shall be placed on each space so that there is at least a ten (10) foot clearance between them. No recreational vehicle shall be located closer than twenty (20) feet from any building within the park or from any property line surrounding the park, except where such property line is a public street. No recreational vehicle shall be located closer than twenty-five (25) feet from any public street.
6. A properly ventilated and constructed storm shelter shall be provided in a convenient location near the recreational vehicle spaces. Each shelter shall have at least 21 square feet of shelter floor area per recreational vehicle space. Storm shelters shall be constructed in accordance with all applicable City-adopted building codes.
7. An accessible, adequate, safe and potable supply of water shall be provided for the recreational vehicle spaces. Where a public supply of water is available, connection shall be made thereto and its supply used exclusively. The public health agency having jurisdiction shall approve all private sources of water.
8. Electrical wiring systems for the recreational vehicle spaces shall be installed in accordance with applicable City- adopted electrical codes.
9. It shall be the duty of the park operator to keep a register containing a current record of all recreational vehicle owners and occupants leasing spaces. The register shall contain the following information:

- a. The name and address of each recreational vehicle owner or tenant.
- b. The date of arrival and departure of each recreational vehicle.
- c. The license tag number of each motor vehicle.

The Manufactured Home Park owner, manager or caretaker shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register.

10. The storage, collection and disposal of refuse in the recreational vehicle area shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. All refuse shall be stored in fly tight, watertight, rodent-proof containers, which shall be located not more than one hundred fifty (150) feet from any recreational vehicle space. All refuse shall be collected at least twice weekly.

ARTICLE 14

MANUFACTURED HOME SUBDIVISION DISTRICT (MHS)

Sections:

- 14-1 Intent**
- 14-2 Permitted Uses**
- 14-3 Conditional Uses**
- 14-4 Intensity of Use**
- 14-5 Height Regulations**
- 14-6 Yard Regulations**
- 14-7 Sign Regulations**
- 14-8 Parking Regulations**
- 14-9 Performance Standards**
- 14-10 General Requirements**

SECTION 14-1 INTENT

14-101. The intent of the MHS District is to provide low density manufactured housing development which would be compatible with the character of the surrounding neighborhood. For purposes of these regulations the terms "manufactured housing" or "manufactured homes" shall not include mobile homes, as defined in these regulations.

SECTION 14-2 PERMITTED USES

14-201. In the MHS District no building shall be used and no building or structure shall be altered, enlarged or erected, which is arranged, intended or designed for other than one of the uses listed below:

- a. Churches, synagogues and other similar places of worship.
- b. Single-family dwellings.
- c. Public park and recreation areas.

SECTION 14-3 CONDITIONAL USES

14-301. In the MHS District the following uses are allowed upon the issuance of a Conditional Use Permit in accordance with the provisions of Article 26:

- a. Any public building or land used by any department of the city, county, state or federal government.
- b. Telephone exchange, electric substations, cable television or other similar utilities.
- c. Public or private schools, elementary, junior high and high schools.

SECTION 14-4 INTENSITY OF USE

14-401. No manufactured housing shall be placed on a lot having less than five thousand (5,000) square feet of lot area. The maximum lot coverage by the principal building shall be fifty percent (50%).

SECTION 14-5 HEIGHT REGULATIONS

14-501. No building shall exceed thirty-five (35) feet in height except as otherwise provided in Article 15.

SECTION 14-6 YARD REGULATIONS

14-601.

- a. **Front yard.**
 1. Front yards on arterial or collector streets shall conform with the provisions of Article 24.
 2. In all cases not provided for in Article 24, there shall be a front yard of not less than twenty-five (25) feet.
- b. **Side yard.** Except as otherwise provided in Article 20, there shall be a side yard on each side of a principal building of not less than eight (8) feet. Accessory structures that are at least ten (10) feet from the main building may be located within five (5) feet of a side property line.
- c. **Rear yard.** Except as otherwise provided in Article 20, there shall be a rear yard having a depth of not less than twenty (20) feet or twenty (20) percent of the average depth of the lot, whichever amount is smaller.

14-602 Additional yard regulations are set out in Section 20-2.

SECTION 14-7 SIGN REGULATIONS

14-701. Sign regulations for the MHS District are set out in Article 27.

SECTION 14-8 PARKING REGULATIONS

14-801. Parking regulations for the MHS District are set out in Article 22.

SECTION 14-9 PERFORMANCE STANDARDS

14-901. The following performance standards shall apply to all manufactured housing lots in the MHS District:

- a. **Minimum size.** Manufactured housing shall have a minimum width of ten (10) feet and contain a minimum of four hundred-fifty (450) square feet.
- b. **Fences.** Fencing on each lot shall comply with the fence regulations of the City.
- c. **Skirting.** Manufactured housing shall be provided with skirting on all sides and shall be of material harmonious to the manufactured home.
- d. **Blocking.** Manufactured housing shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home and this blocking shall provide sixteen (16) inches of bearing upon the stand.
- e. **Utilities.** All utility connections shall be in conformance with City codes.
- f. **Tie-downs and ground anchors.** Manufactured housing shall be secured to the ground by tie-downs and ground anchors in accordance with the Mobile Home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234 and amendments thereto.
- g. **Area.** The tract to be used for a manufactured home subdivision shall not be less than five (5) acres.
- h. **Platting.** The area shall be platted in accordance with the subdivision regulations.
- i. **Foundation.** Permanent foundations are permissible for manufactured housing, but are not required.

SECTION 14-1 GENERAL REQUIREMENTS

14-1001 No manufactured home manufactured on or after September 1, 1973 shall be located, relocated, stored or parked in the MP District unless such home complies with the provisions of K.S.A. 75-1211: 1234, and amendments thereto, and rules and regulations adopted there under. No manufactured home manufactured prior to September 1, 1973 shall be located, relocated, stored or parked in the MP District unless such home is in compliance with all applicable provisions of City-adopted building codes.

ARTICLE 15

INDUSTRIAL DISTRICTS (I-1 and I-2)

Sections:

- 15-1 Intent**
- 15-2 Permitted and Conditional Uses**
- 15-3 Development Standards**
- 15-4 Height and Yard Regulations**
- 15-5 Sign Regulations**
- 15-6 Parking Regulations**
- 15-7 Loading and Unloading Regulations**
- 15-8 Screening Requirements**
- 15-9 Site Plans**

SECTION 15-1 INTENT

15-101. It is the intent of the Industrial Districts to provide for areas of both light and heavy industrial uses and for other compatible uses.

SECTION 15-2 PERMITTED AND CONDITIONAL USES

15-201. In the industrial zoning districts the uses listed in Table 15-1 within the designated zoning districts are permitted uses or conditional uses as designated. Conditional uses require the issuance of a Conditional Use Permit in accordance with the provisions of Article 26. No building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except as listed in Table 15-1.

TABLE 15-1
Industrial Zoned Districts
Permitted and Conditional Uses

P = Indicates Permitted Uses
C = Indicates Conditional Uses

USE		I-1	I-2
1.	Agricultural.	P	P
2.	Airport hangers.	P	
3.	Animal hospitals or veterinarian clinics.	P	P
4.	Armory.	P	
5.	Automobile wrecking or salvage yards, junk yards and scrap processing yards.		C
6.	Bottling works.	P	P
7.	Building material sales including lumber yards (except for ready-mix concrete and similar uses which emit dust, odor and smoke.)	P	
8.	Car and truck wash establishments.	P	
9.	Carpenter, cabinet, plumbing or sheet metal shops.	P	P
10.	Contractor's office and equipment storage yard.	P	P
11.	Dog kennels.	P	P
12.	Dry cleaning and/or laundry plants.	P	P
13.	Farm implement sales and services.	P	
14.	Feed and seed stores, grain elevators.		P
15.	Frozen food lockers.	P	P
16.	Greenhouses and nurseries, retail and wholesale.	P	P
17.	Light manufacturing, processing or fabrication operations, providing that such use is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas, odor, smoke or other particulate matter.	P	
18.	Machine shops, tool and die shops, and similar establishments	P	P
19.	Machinery sales and storage lots, including motor vehicles.	P	P
20.	Manufacturing, processing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust fumes, gas, odor.		P
21.	Mobile home manufacture, sales and storage.		P
22.	Monument sales.	P	
23.	Motor vehicle repair.	P	P

TABLE 15-1
Industrial Zoned Districts
Permitted and Conditional Uses

P = Indicates Permitted Uses

C = Indicates Conditional Uses

USE		I-1	I-2
24.	Offices and service yards for the Kansas Department of Transportation.	P	P
25.	Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.		C
26.	Public utility and public service uses including: municipal power plants; substations; railroads; telephone exchanges, microwave towers, radio towers, television towers, telephone transmission buildings, electric power plants; and public utility storage yards.	P	P
27.	Self-storage (mini-storage).	P	
28.	Service stations.	P	P
29.	Stockyards and slaughterhouses.		C
30.	Storage of bulk oil, gas and explosives.		C
31.	Storage yards providing the storage yard is completely enclosed with a six foot fence or wall.		P
32.	Telecommunication towers subject to the further requirements of Article 12.		C
33.	Truck and rail terminals.	P	P
34.	Warehouses or storage houses.	P	P
35.	Welding shops.		P

SECTION 15-3 DEVELOPMENT STANDARDS

15-301.

- a. A building, structure or use, allowed in either or both the I-1 and I-2 Districts, may occupy all that portion of a lot except for the area required for off-street parking, off-street loading and unloading and their access roads and/or arterial or collector streets as otherwise required in this Article or Article 22.
- b. When the required off-street parking and/or required loading and unloading will be provided within the building or structure, the building or structure may cover the entire lot except as otherwise required for arterial and/or collector streets in Article 23.
- c. No retail sales or service shall be permitted except when incidental or accessory to a permitted use or except when specifically permitted pursuant to this Article.
- d. No building shall be used for residential purposes, except a watchman may reside on the premises.
- e. Except where otherwise expressly prohibited by these regulations, outside storage may be maintained provided the view of non-retail storage areas is screened from streets and residential areas by a solid or semi-solid fence, wall or vegetation at least six (6) feet in height and having a visual density of at least ninety percent (90%).

SECTION 15-4 HEIGHT AND YARD REGULATIONS

15-401.

- a. **Height.**
 1. When a building or structure is within one hundred fifty feet (150) of property within the R-1, R-2, R-3 or other zoning district which allows residential uses, said building or structure shall not exceed forty-five (45) feet in height.
 2. When a building or structure is more than one hundred fifty (150) feet from a property within the R-1, R-2, R-3 or other zoning district which allows residential uses, said building or structure shall not exceed one hundred fifty (150) feet or the maximum height for any applicable airport approach zone, whichever is the lesser.

b. Yard.

1. *Front Yards.* There shall be a front yard having a depth of not less than sixty (60) feet measured from the center line of the street, for all lots fronting on local streets. Lots fronting on arterial or collector streets shall comply with the front yard requirements provided in Article 24.
2. *Side Yards.* No side yard shall be required except where a use adjoins a residential district, in which case there shall be a required fifteen (15) feet of side yard on the side of the lot abutting the residential district.
3. *Rear Yards.* When the rear lot line adjoins an area which is not zoned for commercial or industrial use, there shall be a rear yard for buildings as follows:
 - (a) One and two-story buildings shall have a rear yard of twenty-five (25) feet or twenty (20) percent of the depth of the lot, whichever is the smaller.
 - (b) Three story or more buildings shall have a rear yard of not less than thirty (30) feet.

SECTION 15-5 SIGN REGULATIONS

15-501. Sign regulations for the I-1 and I-2 Districts are set out in Article 27.

SECTION 15-6 PARKING REGULATIONS

15-601. Parking regulations for the I-1 and I-2 Districts are set out in Article 22.

SECTION 15-7 LOADING AND UNLOADING REGULATIONS

15-701. Loading and unloading regulations for the I-1 and I-2 Districts are set out in Article 23.

SECTION 15-8 SCREENING REQUIREMENTS

15-801. Screening requirements for the I-1 and I-2 Districts are set out in Article 20, at Section 20-6.

SECTION 15-9 SITE PLANS

15-901. Site plan approval may be required of industrial development prior to the issuance of a building permit. Requirements for such site plans and the procedure for site plan review and approval are set out in Article 28.

ARTICLE 16

PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT

Sections:

- 16-1 Intent**
- 16-2 General Provisions**
- 16-3 Standards and Conditions**
- 16-4 Application Process**
- 16-5 Preliminary Plan**
- 16-6 Final Plan**
- 16-7 Recording**

SECTION 16-1 INTENT

16-101. It is the intent of the Planned Unit Development Overlay District to encourage innovation in residential, commercial and industrial development by greater variety in type, design and layout of buildings, to encourage a more efficient use of land reflecting changes in the technology of land development; to encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of the land; and to provide a procedure which relates the type, design and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods.

The PUD District is an overlay zone. The developer shall submit preliminary and final development plans in accordance with the provisions and conditions set out in this Article.

SECTION 16-2 GENERAL PROVISIONS

16-201. A planned unit development shall be in general conformity with the provisions of the City's Comprehensive Plan, and shall not have a substantially adverse effect on the development of the neighboring area. The plan shall consist of a preliminary plan for development of the entire tract and for a final plan of development for individual portions of the plan.

- a. **Permitted uses.** The applicant may propose any mixture of land uses including residential, commercial, and/or industrial uses.
- b. **Size.** The minimum size allowed for a planned unit development shall be two (2) acres.
- c. **Bulk regulations including front, rear and side yard setbacks, and structure height.** Generally consistent with the existing zoning district on the proposed site, but may be varied for a specific site as proposed by the developer when so approved.

- d. **Parking.** Off-street parking and loading areas shall be provided for all uses within the district in accordance with the requirements of these regulations, unless it is determined by the Planning Commission and the Governing Body that other parking ratios are more appropriate for a specific proposal.

SECTION 16-3 SPECIFIC STANDARDS AND CONDITIONS

16-301.

- a. The applicant shall satisfy the Planning Commission that he or she has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of eighteen (18) months following approval of a final plan by the Governing Body. The time period established for the commencing of the plan may be modified from time to time by the Planning Commission upon the showing of good cause by the developer. In the event the landowner shall fail to commence the planned unit development within eighteen (18) months after final approval has been granted by the Governing Body, such approval shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the landowners.
- b. The site shall be accessible from public roads that are adequate to carry the traffic that will be generated by the proposed development. The streets and driveways on the site of the development shall be adequate to serve the residents or occupants of the proposed development. Streets may be either public or private streets, however all private streets shall be of a size that will carry anticipated traffic and shall be paved. If it is determined that traffic control signals are required to prevent traffic hazards or congestion upon adjacent streets, the control signals shall be provided at the developer's expense.
- c. The development shall not impose an undue burden on public services and facilities.
- d. The application for a planned unit development shall be signed by all owners of the land at the time of application. The plan may have areas designated for sale after platting or development.
- e. The location and arrangement of structures, parking areas, walks, lighting, and facilities shall be compatible with the surrounding land uses, and any part of a planned unit development not used for structures, parking, loading areas, or access ways shall be landscaped or otherwise improved.

- f. When a commercial or industrial planned unit development or a commercial or industrial use within a mixed use development abuts a residential district, either adjacent to or within the planned development, a solid or semi-solid fence or wall from six (6) to eight (8) feet in height and having a visual density of not less than ninety percent (90%) per square foot shall be erected. Such fence or wall shall be on or within three (3) feet of the property line separating the use from the residential zone. Screen plantings may be used provided the type, size and number are shown on the final development plan and are approved by the Planning Commission. All required screening and plantings shall be maintained.
- g. Setbacks shall be as required in the base zone in which the planned unit development is located unless otherwise specifically approved by the Planning Commission and Governing Body.
- h. The planned unit development shall include such provisions for the ownership and maintenance of the common open spaces and private streets as are reasonably necessary to insure its continuity, care, conservation and maintenance, and to insure that remedial measures will be available to the Governing Body if such is allowed to deteriorate, or is not maintained in a condition consistent with the best interest of the planned development or of the entire community.
- i. No residential use shall have vehicular access onto an arterial street.
- j. Sidewalks shall be provided for on all private streets in accordance with the size, construction and location of sidewalks on public streets. An alternative pedestrian and sidewalk plan may be developed which provides pedestrians access between each use in the planned unit development, and consideration shall be given to providing for bicycle traffic along arterial and collector streets and along the approved pedestrian sidewalk system.

SECTION 16-4 APPLICATION PROCESS

16-401. The process for PUD approval is a two step process. The applicant shall submit application for preliminary approval to the Planning Commission which shall conduct a public hearing on the application. The recommendation of the Planning Commission shall be submitted to the Governing Body for approval. The developer may then submit a final plan on the entire project or for designated areas to the Planning Commission for approval. The recommendation of the Planning Commission on the final plat is then submitted to the Governing Body for its final approval and/or acceptance of street rights-of-way and utility easements.

SECTION 16-5 PRELIMINARY PLAN

16-501.

- a. An application for a PUD shall be handled in the same manner as prescribed for rezoning, including notice, advertisement of public hearing, protest and adoption. If lots are to be platted for sale, then the preliminary plan shall also be considered as a preliminary subdivision plat.
- b. The applicant shall prepare and submit five (5) copies of the preliminary development plan for review and approval of the Planning Commission, which plan shall be prepared by a licensed engineer or land surveyor and shall include:
 1. A site plan showing:
 - (a) Contours at intervals of two (2) feet.
 - (b) General location, size and use of all proposed structures, with all setbacks shown or the design of individual lots that are to be later developed or sold including lot, block, easements and public right-of-way if required.
 - (c) All points of ingress and egress, driveways, parking lots, parking spaces and service areas.
 - (d) All streets adjoining subject property and the width of the existing right-of-way of such streets.
 - (e) All public or private streets desired in the planned unit development along with any required and proposed sidewalks and or pedestrian ways.
 - (f) Areas set aside for public open space with the type of facilities planned for each area indicated.
 - (g) Intensity of use of each space.
 - (h) Location of natural features such as ponds, tree clusters, etc.
 - (i) Location and proposed type of all required and proposed screening.
 2. A full legal description of the boundaries of the property or properties to be included in the PUD.

3. A vicinity map showing the general arrangements of streets and use of land of property within one thousand (1,000) feet from the boundaries of the proposed PUD.
 4. If the proposed development includes common open spaces, streets, recreational facilities, or other common ownership, a statement describing the provisions for the care and maintenance of such common spaces. If it is proposed that such open space be owned and/or operated by an entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
 5. Where a proposal calls for construction in parcels over a period of years, a proposed schedule showing a proposed time and sequence for final approval of all sections shall be submitted.
- c. **Action by the Planning Commission.** The Planning Commission shall conduct a public hearing on the preliminary plan following the same procedure as for any other rezoning application. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions.
 - d. **Action by the Governing Body.** The Governing Body may approve the preliminary development plan and authorize the submitting of the final development plan or plans. If the Governing Body approves the preliminary plan, it shall pass an ordinance designating the tract with an overlay of the planned unit development and so order the official zoning map to be amended.
 - e. Substantial or significant changes in the preliminary planned unit development shall only be made after rehearing and re-approval as required for the approval of a preliminary plan.

SECTION 16-6 FINAL PLAN

16-601.

- a. After approval of a preliminary plan by the Governing Body, the applicant shall submit an application for final approval. The application may include the entire planned unit development or may be for a section thereof. The application shall include five (5) copies of such drawings, specifications, easements, conditions as set forth in the approval of the preliminary plan and with requirements of this article.
- b. A plan submitted for final approval shall be deemed to be in substantial compliance with the approved preliminary plan, provided any modification of the plan does not:

1. Vary the proposed gross residential density or intensity of use by more than five percent (5%) or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; or
 2. Increase by more than ten percent (10%) the floor area proposed for any building; or
 3. Increase by more than five percent (5%) the height of the proposed building; or
 4. Substantially change the design of the plan so as to significantly alter the approved preliminary plan, as determined by the Planning Commission, including such items as pedestrian or vehicular traffic flow or different land uses.
- c. A public hearing need not be held for approval of a final plan if it is in substantial compliance with the approved preliminary plan, and a public hearing need not be held to consider modifications of water, storm water, sanitary sewers or other utilities. The Planning Commission shall forward its recommendation to the Governing Body for its final approval.
- d. In the event the final plan contains substantial changes from the approved preliminary development plan, the applicant shall resubmit an amended preliminary plan which shall be considered in the same manner prescribed in the article for original approval.

SECTION 16-7 RECORDING

16-701. Any approved final plan shall be filed of record with the Cloud County Register of Deeds.

ARTICLE 17

HOME OCCUPATION REGULATIONS

Sections:

- 17-1 Home Occupations**
- 17-2 Permitted Home Occupations**
- 17-3 Prohibited Home Occupations**

SECTION 17-1 HOME OCCUPATIONS

17-101. Home occupations as defined in Article 2 of these regulations shall be permitted in the A-L District and the R-1, R-2 and R-3 residential districts, subject to the following:

a. Restrictions and Limitations.

1. No more than one employee or volunteer shall engage in such home occupation in addition to the a person occupying the dwelling unit as his or her place of residence.
2. There shall be no outdoor storage of materials or equipment used in the home occupation.
3. No exterior alterations or other construction shall be made to the dwelling which changes the character or appearance from its primary residential use.
4. No new accessory buildings shall be constructed for use, in whole or in part, in the home occupation.
5. The repair of items as a home occupation may occur only when the delivery and pickup of the item is conducted off the premises by the proprietor of the home occupation or by an employee (as authorized in item 1 above) of the home occupation. No trips shall be generated to or from the home occupation by customers with items which have been or are to be repaired.
6. No equipment or material shall be used which creates any noise, vibration, smoke or odors perceptible at the boundary lines of the property, which would be in excess of that ordinarily created by a single family residential dwelling.

7. No merchandise shall be displayed or sold on the premises to members of the general public, except craft or articles made by the person operating the home occupation. In no instance shall there be any outside display of such articles in connection with the home occupation. "Members of the general public" shall not include persons who have prior individualized invitation.
 8. The area exclusively devoted to all home occupations shall be limited to twenty-five percent (25%) of the total floor area of the dwelling or three hundred fifty (350) square feet, whichever is less.
 9. The giving of lessons of any type shall be limited to no more than five (5) persons at any one time.
 10. Signs regulations for home occupations are set out in article 27.
- b. **Power of Zoning Administrator.** The Zoning Administrator is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Section, including the power to:
1. Investigate any home occupation or alleged home occupation, to determine whether or not such is in compliance with these regulations.
 2. Enter upon premises for the purpose of making examinations: provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

SECTION 17-2 PERMITTED HOME OCCUPATIONS

17-201. Permitted home occupations are primarily of a service nature similar to, but not limited to, the following:

- a. Artists, sculptors and writers.
- b. Custom dressmaking, tailoring sewing of fabrics for custom apparel.
- c. Giving of lessons of any type.

- d. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, realtors, insurance agents, brokers, sales representatives, contractors, and similar professional offices.
- e. Fabrication and/or assembly of handicraft or hobby articles.
- f. Photographic studios.
- g. Beauty or barber shops having one chair, stand or station.

SECTION 17-3 PROHIBITED HOME OCCUPATIONS

17-301. Except where allowed as a permitted or conditional use, home occupations shall not in any event include the following:

- a. Antiques, either-retail or wholesale.
- b. Animal care of any type.
- c. Funeral homes or services.
- d. Retail sale or rental of any goods or products, other than where the commercial exchange constituting such sales or rental is accomplished by means of catalog orders, whether in written or electronic form
- e. Automotive sales, repair or service of any type.
- f. Appliance repairs (other than for hand-held household appliances).

ARTICLE 18

AIRPORT OVERLAY DISTRICT ZONING REGULATIONS

(The Planning Commission deferred action on Article 18 until it has the opportunity to hear from the Airport Advisory Committee regarding the proposed airport zoning regulations. The Planning Commission intends to forward its recommendation on Article 18 to the City Commission once it has heard from the Committee.)

ARTICLE 18

AIRPORT OVERLAY DISTRICT ZONING REGULATIONS

Sections:

- 18-1 Statement of Purpose**
- 18-2 Authority**
- 18-3 Definitions**
- 18-4 Airport Zones and Height Limits**
- 18-5 Spacing From Adjacent Airport**
- 18-6 Use Restrictions**
- 18-7 Height Permit Required**
- 18-8 Blosser Airport Flight Hazard Zoning Maps**

SECTION 18-1 STATEMENT OF PURPOSE

18-101. This overlay district is established to protect against possible airport flight hazards which endanger the lives and property of users of the Blosser Airport, and occupants of land in the vicinity of the airport. These regulations are intended to implement the Blosser Municipal Airport Master Plan. An airport flight hazard may affect existing and future instrument approach minimums of the airport, and an airport flight hazard may reduce the size of areas available for the landing, take-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public interest therein.

SECTION 18-2 AUTHORITY

18-102. By the establishment of the airport flight hazard overlay district, as authorized by K.S.A. 3-703, as amended, the City may extend the coverage of these regulations to airports owned, operated or controlled by the City; and to privately owned airports within five miles of the city boundaries if the airport utilizes its facilities to provide a service to the public.

SECTION 18-3 DEFINITIONS: *As used in this article, unless the context otherwise requires.*

18-103.

Accessory uses. Subordinate uses which serve an incidental function to that of the use of property as an airport, including but not limited to airplane hangars, aircraft fueling facilities and aircraft maintenance and repair facilities.

Airport. Any area of land or water designed and set aside for the landing and taking-off of aircraft, utilized or to be utilized in the interest of the public for such purpose and validly licensed by the state in the Public Airport category. The term includes heliports set aside for the landing and taking-off of rotary wing aircraft.

Airport elevation. The established airport elevation, in feet above mean sea level, of the highest point of the landing area which is used or intended to be used for take-off and landing operations.

Airport master plan. The Blosser Municipal Airport Master Plan Update, as approved by the Governing Body.

Airport Obstruction. Any object of natural growth, structure or use of land which would exceed the federal obstructions standards as contained in CFR S.S. 71.21 77.23, 77.25, 77.28, 77.29 or which obstruct the airspace required for flight of aircraft taking off, maneuvering or landing or otherwise be hazardous to the taking-off, maneuvering or landing of aircraft.

Airspace height. The height limits as established in all zones set forth in this article. Above Mean Sea Level (AMSL) shall be the datum unless otherwise specified.

Approach surface. A surface longitudinally centered on the extended runway centerline; extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in these regulations.

Civilian airports. Any airports, public or private, that are not owned or operated by the government of the United States and used for military purposes.

Climb gradient. Aircraft instrument departure procedure requiring adherence to a minimum climb slope or grade expressed in feet per nautical mile.

Conical surface. An inclined surface extending upward and outward from the outer periphery of the horizontal surface at a slope of one (1) foot upward for each twenty (20) feet outward for a horizontal distance of seven thousand (7,000) feet.

Decision height. The height at which a pilot must decide, during an Instrument Landing System (ILS) approach, to either continue the approach or to execute a missed approach.

FAA. The Federal Aviation Administration.

Heliport. An area on land, water or upon a structure set aside and used for the landing and take-off of rotary wing aircraft and in addition facilities may be provided for the fueling, refueling, repair and storage of rotary wing aircraft.

Horizontal surface. A horizontal plane one hundred fifty (150) feet above the established airport

elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Larger than utility runway. A runway that is constructed for and intended to be used by propeller driven and jet aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight.

Minimum Decent Altitude (MDA). *The lowest AMSL altitude to which descent is authorized on final approach or during circling-to-land maneuvering in execution of a Standard Instrument Approach Procedure (SIAP) where electronic glide slope is not approved.*

Minimum En Route Altitude (MEA). *The lowest published altitude between radio fixes that assures acceptable navigational signals coverage and meets obstruction clearance requirements between those fixes.*

Minimum Obstruction Clearance Altitude (MOCA). *The lowest published altitude between radio fixes on Federal VOR airways, off, airway routes, on route segments than meets obstruction clearance requirements for the entire route segment and assures acceptable navigational signal coverage only within 22 miles of VOR.*

Minimum Vectoring Altitude (MVA). *The lowest AMSL altitude at which aircraft operating on Instrument Flight Rules (IFR) will be vectoring by a radar controller, except when otherwise authorized for radar approaches, departures or missed approaches.*

Nonprecision instrument runway. A runway having an existing or planned instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment for which a straight-in, nonprecision instrument approach procedure has been approved or planned, or indicated on an appropriate civil or military airport planning document.

Nonstandard take-off minimums. *Conditions of existing weather required for take-off at an airport which exceed the standards prescribed in Federal Aviation regulations Part 91.*

Other than Utility Runway. *A runway designed for an intended to be used by all types of aircraft including those having gross weights greater than 12,500 pounds.*

Precision instrument runway. A runway having an existing or planned instrument approach procedure utilizing an instrument landing system (ILS), *Microwave Landing system* or precision approach radar (PAR), *including a runway for such a system is planned and is so indicated on as approved civil or military airport layout plan; other FAA planning documents, or comparable military service planning documents.*

Primary surface. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of the runway. The width of the primary surface is set forth in these regulations. The elevation of any point on the primary surface is the same as the nearest point on the runway centerline.

Primary surface - heliports. An area that coincides in size and shape with the designated take-off and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

Runway. A defined area on an airport prepared for landing and take-off of aircraft along its length.

Transitional surfaces. The transitional surfaces extended outward at ninety (90) degree angles to runway centerlines and runway centerlines extended, at a slope of one (1) foot upward for each seven (7) feet outward from the sides of the primary and approach surfaces.

The transitional surfaces connect the horizontal, conical, primary and approach surfaces. Transitional surfaces for those portions of the approach surfaces, which project beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at ninety (90) degree angles to the extended runway centerline.

Transitional surfaces - heliports. The transitional surfaces extended outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of two to one for a distance of two hundred fifty (250) feet measured horizontally from the centerline of the primary and approach surfaces.

Utility runway. A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less.

Visual runway. A runway intended solely for the operation of aircraft using visual approach procedures *with no instrument approach procedure planned or indicated on an approved civil or military airport layout plan, or by any other planning document submitted to the FAA by a component authority.*

SECTION 18-4 AIRPORT ZONES AND AIRSPACE HEIGHT LIMITS

18-401. The established airport elevation is 1486.45 feet.

18-402. Utility runway visual approach zone (Runways 3-21, 13-31 and 17-35).

- a. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide.

- b. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the end of the primary surface of each runway. Its center line is the continuation of the centerline of the runway.
- c. The applicable height limitation slopes one (1) foot upward for each forty (40) feet outward, beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

18-403. Runway larger than utility with a visibility minimum greater than three-fourths mile nonprecision instrument approach zone.

- a. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide.
- b. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the end of the primary surface of each runway. Its centerline is the continuation of the centerline of the runway.
- c. The applicable limitation slopes one (1) foot upward for each forty (40) feet outward, beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 10,000 feet along the runway centerline.

18-404. Precision instrument runway approach zone.

- a. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide.
- b. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the end of the primary surface of each runway. Its centerline is the continuation of the centerline of the runway.
- c. The applicable height limitation slopes one foot upward for each fifty (50) feet outward, beginning at the end of, and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes one (1) foot upward for each forty (40) feet outward to an additional horizontal distance of 40,000 feet along the extended runway centerline.

18-405. Transitional zones.

- a. The transitional zones are the areas beneath the transitional surfaces.
- b. The applicable height limitation slopes one (1) foot upward for each seven (7) feet outward, beginning at the sides of, and at the same elevation as, the primary surface

and the approach surface, and extending to a height of 150 feet above the airport elevation.

- c. In addition to the foregoing, there are established height limits sloping one (1) foot upward for each seven (7) feet outward beginning at the side of, and at the same elevation as, the approach surface and extending to where they intersect the conical surface.
- d. Where precision instrument runway approach zones project beyond the conical zones, there are established height limits sloping one (1) foot upward for each seven (7) feet outward beginning at the side of, and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at ninety (90) degree angles to the extended runway centerline.

18-406. Horizontal zones.

- a. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet radii for all other runways from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs.
- b. The radii of the arcs for each end of the runway shall be the same and the radius used shall be the longest determined for either end.
- c. The applicable height limitation is established at 150 feet above the established airport elevation.

18-407. Conical zone.

- a. The conical zone is established at that area that commences at the periphery of the horizontal zone and extends outward for a horizontal distance of 4,000 feet.
- b. The applicable height limitation slopes one (1) foot upward for each twenty (20) feet outward beginning at the periphery of the horizontal zone and at 150 feet above the established airport elevation and extending to a height of 350 feet above the airport elevation.

SECTION 18-5 SPACING FROM ADJACENT AIRPORT

18-501. No other airport hereafter shall be established, or existing airport be improved with approach guidance equipment so as to enhance instrument flight rule (IFR) capabilities, any portion of which proposed or existing boundary will be under an airport zone established by these regulations or within a radius of eight (8) miles from an airport referenced point of an airport

established on the date of these regulations, unless a permit shall been applied for and granted by the Planning Commission in accordance with these regulations.

18-502. Exception to the spacing requirements may be granted by the Governing Body, after public hearing and recommendation by the Planning Commission. The Governing Body shall consult the FAA, the Planning Commission and the Airport Advisory Committee before granting an exception.

SECTION 18-6 USE RESTRICTIONS

18-601. Lighting. No use may be made of land or water within the airport overlay district in such manner as to make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of the pilots using the airports, create smoke, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way, endanger or interfere with the landing, take-off or maneuvering of aircraft intending to use the airport.

18-602. A shield that reduces the amount of light visible from above and directs the light downward shall be required for all outdoor lights, except those incidental to residential uses.

18-603. The owner of any existing and future structure or tree shall install, operate and maintain at the owner=s expense, such marking and lighting as to be in accordance with the standard set forth in FAA Circular AC-70-7460-1F.

18-604. In the airport overlay zoning district the uses listed in Table 18-1 are permitted uses or conditional uses when so designated. Conditional uses require the issuance of a Conditional Use Permit in accordance with the provisions of Article 26. No building or land shall be used and no building or structure shall be erected, altered or enlarged, which is arranged, intended or designed for other than one of the uses indicated in the following Table 18-1.

**TABLE 18-1
AIRPORT OVERLAY ZONING
PERMITTED AND CONDITIONAL USES**

P = Indicates Permitted Uses
C = Indicates Conditional Uses

USE		
1.	Any use permitted in the I-1 or I-2 districts. (see Table 15-1)	P

2.	Any use allowed as a conditional use in the I-1 or I-2 districts. (see Table 15-1)	C
3.	Public or private recreational uses such as golf courses, parks, and wildlife and nature preserves.	P

SECTION 18-7 CONDITIONAL USE PERMIT REQUIRED

18-701. In the area lying within the boundaries of Area A shown on the Blosser Airport Flight Hazard Zoning Map (BAHZM) a permit shall be required from the Governing Body for any structure more than twenty-five (25) feet of vertical height above the ground.

18-702. In the area lying within the boundaries of Area B on the BAHZM a permit shall be required for any structure more than seventy-five (75) feet of vertical height above the ground.

18-703. In the area lying within the boundaries of Area C on the BAHZM a permit shall be required for any structure more than 150 feet of vertical height above the ground.

18-704. In the area lying within the boundaries of Area D on the BAHZM a permit shall be required for any structure more than 300 feet of vertical height above the ground.

SECTION 18-8 BLOSSER AIRPORT FLIGHT HAZARD ZONING MAPS

18-801. The airport flight hazard zoning maps are hereby made a part of these regulations and shall be signed by the City Clerk and marked with the effective date of these regulations.

ARTICLE 19

FLOODPLAIN MANAGMENT REGULATIONS

Sections:

- 19-1 Statutory Authorization, Findings of Fact and Purposes**
- 19-2 General Provisions**
- 19-3 Administration**
- 19-4 Provisions for Flood hazard regulations**
- 19-5 Floodplain Management Variance Procedures**
- 19-6 Penalties for Violations**
- 19-7 Amendments**
- 19-8 definitions**

SECTION 19-1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

a. STATUTORY AUTHORIZATION

1. The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on April 21, 2014.
2. The Legislature of the State of Kansas has in K.S.A. 12-741 et seq, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare.
3. After notice and public hearing as provided by Article 26 of the Zoning Regulations of the City of Concordia, the Concordia Planning Commission has recommended that the Zoning Regulations be amended as set forth herein.

b. FINDINGS OF FACT

1. Flood Losses Resulting from Periodic Inundation. The special flood hazard areas of the City of Concordia, Kansas are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
2. General Causes of the Flood Losses. These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

c. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Section 19-1, Subsection b(1); to establish or maintain the community’s eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(b) and K.A.R. 5-44-4 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

SECTION 19- 2 GENERAL PROVISIONS

a. LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of Concordia, Kansas identified as unnumbered A zones on the Index Map dated July 16, 2014 of the Flood Insurance Rate Map (FIRM) as amended and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted, except through the issuance of a floodplain development permit, granted by the City of Concordia or its duly designated representative under such safeguards and restrictions as the City of Concordia or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Section 19- 4.

b. COMPLIANCE

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

c. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

d. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

e. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. This ordinance shall not create a liability on the part of the City of Concordia, Kansas, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

f. SEVERABILITY

If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

SECTION 19-3 ADMINISTRATION

a. FLOODPLAIN DEVELOPMENT PERMIT

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 19-2, Subsection a. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

b. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The building inspector is hereby appointed to administer and implement the provisions of this ordinance as the Floodplain Administrator.

c. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;

2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed; and
9. When floodproofing techniques are utilized for a particular non-residential structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.

d. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;

5. Identify the existing base flood elevation and the elevation of the proposed development;
6. Give such other information as reasonably may be required by the Floodplain Administrator;
7. Be accompanied by plans and specifications for proposed construction; and
8. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

SECTION 19-4 PROVISIONS FOR FLOOD HAZARD REDUCTION

a. GENERAL STANDARDS

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the Flood Insurance Rate Map (FIRM) are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If the Flood Insurance Study is not available; the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from State, Federal and other sources.
3. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
 - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Construction with materials resistant to flood damage;
 - c. Utilization of methods and practices that minimize flood damages;
 - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems

be located so as to avoid impairment or contamination from them during flooding;
and

f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

4. Agricultural Structures

Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

5. Storage, Material, and Equipment

a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation or if readily removable from the area within the time available after a flood warning.

6. Nonconforming Use

A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

- a. If such structure, use, or utility service is discontinued for 12 consecutive months, any future use of the building shall conform to this ordinance.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

7. Accessory Structures

Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

8. Cumulative Improvement

A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed 50 percent of the structure's current market value. If the cumulative value of the improvement exceeds 50 percent of the structure's current market value, the structure must be brought into compliance with Section 19-4, Subsection b(1) which requires elevation of residential structures to or above the base flood elevation or the elevation/floodproofing of non-residential structures to or above the base flood elevation.

b. SPECIFIC STANDARDS

1. In all areas of special flood hazard, once base flood elevation data is obtained, as set forth in Section 19-4, Subsection a (2), the following provisions are required:

a. Residential Construction

New construction or substantial-improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement,

elevated to a minimum of one (1) foot above base flood level. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

b. Non-Residential Construction

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be dry floodproofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer. Such certification shall be provided to the floodplain administrator as set forth in Section 19-3, Subsection c (7) (8) (9).

c. Require for all new construction and substantial-improvements, that fully enclosed areas below the lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and

(2) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. In all areas of special flood hazard, once floodway data is obtained, as set forth in Section 19-4, Subsection a (2), the following provisions are required:

a. The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one (1) foot at any point; and

b. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any

increase in flood levels within the community during the occurrence of the base flood discharge.

c. MANUFACTURED HOMES

1. All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

2. Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community's FIRM or FHBM on sites:

a. Outside of a manufactured home park or subdivision;

b. In a new manufactured home park or subdivision;

c. In an expansion to an existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial-damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a minimum of one (1) foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A zones on the community's FIRM or FHBM, that are not subject to the provisions of Section 19-4, Subsection c(2) of this ordinance, be elevated so that either:

a. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

d. RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within unnumbered A zones on the community's FIRM or FHBM either:

1. Be on the site for fewer than 180 consecutive days, or
2. Be fully licensed and ready for highway use*; or
3. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this ordinance.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

SECTION 19-5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

a. ESTABLISHMENT OF APPEAL BOARD

The Board of Zoning Appeals as established by the City of Concordia shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

b. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Section 19-5, Subsection a. The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

c. FURTHER APPEALS

Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court of Cloud County as provided in K.S.A. 12-759 and 12-760.

d. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. Danger to life and property due to flood damage;

2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

**e. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT
VARIANCES**

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provided the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

f. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES

Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Section 19-5, Subsections d and e of this ordinance. In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood, and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM).

2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 19-4, Subsection a (3)(b) of this ordinance.

3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Section 19-4, Section a (3)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight,

floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 19-4, Subsection a (3)(d) of this ordinance.

5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 19- 4, Subsection b (1)(c) of this ordinance.

6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 19-4, Subsection b (2)(b) of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

7. Equipment, machinery, or other contents must be protected from any flood damage.

8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.

9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

g. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Section 19-5, Subsections d and e of this ordinance. In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood

hazard area exists for the agricultural structure. Residential structures, such as farmhouses, cannot be considered agricultural structures.

2. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM).

4. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 19-4, Subsection a (3)(b) of this ordinance.

5. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 19-4, Subsection a (3)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

6. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 19-4, Section a (3)(d) of this ordinance.

6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 19-4, Section a (1)(c) of this ordinance.

7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Section 19-4, Subsection b (2) (b) of this ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.

8. Major equipment, machinery, or other contents must be protected from any flood damage.

9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.

10. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood

level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

11. Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

h. CONDITIONS FOR APPROVING VARIANCES FOR TEMPORARY STRUCTURES

Any variance granted for a temporary structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Section 19-5, Subsections d and e of this ordinance.

1. A temporary structure may be considered for location within the one percent annual chance flood event, also referred to as the 100-year floodplain only when all of the following criteria are met:

a. Use of the temporary structure is unique to the land to be developed and cannot be located outside of the floodplain nor meet the NFIP design standards;

b. Denial of the temporary structure permit will create an undue hardship on the property owner;

c. Community has adopted up-to-date NFIP and building regulations to direct placement and removal of the temporary structure; and,

d. Community has sufficient staff to monitor the placement, use, and removal of the temporary structure throughout the duration of the permit.

2. Once all of the above conditions are met, an application for a special use permit must be made to the (governing body). The (governing body) shall consider all applications for special use permits for a temporary structure based on the following criteria:

a. The placement of any temporary structure within the special flood hazard areas as shown on the community's adopted FEMA/NFIP map shall require an approved special use permit. The special use permit shall be valid for a period not to exceed 180 days.

b. Special use permits applications, for a temporary structure to be located in special flood hazard areas, shall conform to the standard public hearing process prior to any community action on the permit request.

c. An emergency plan for the removal of the temporary structure that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and the relocation and disconnection of all utilities shall be

required as part of the special use permit application for the placement of any temporary structure.

d. On or before the expiration of the end of the 180 day special use permit period, the temporary structure shall be removed from the site. All utilities, including water, sewer, communication, and electrical services shall be disconnected.

e. To ensure the continuous mobility of the temporary structure for the duration of the permit, the temporary structure shall retain its wheels and tires, licenses, and towing appurtenance on the structures at all times.

f. Under emergency flooding conditions, the temporary structure shall be removed immediately or as directed by the community and as specified in the emergency removal plan.

g. Location of any temporary structure within the regulatory floodway requires the provision of a "no-rise" certificate by a registered professional engineer.

h. Violation of or non-compliance with any of the stated conditions of the special use permit during the term thereof, shall make the permit subject to revocation by resolution of the governing body of the community. Issuance of permit revocation notice shall be made to the landowner, the occupant of the land, and to the general public.

i. Any deviation from the approved site plan shall be deemed a violation of the special use permit approval and the uses allowed shall automatically be revoked. The subsequent use of the land shall be as it was prior to the special permit approval. In event of any violation, all permitted special uses shall be deemed a violation of this ordinance and shall be illegal, non-conforming uses and shall be summarily removed and abated.

j. If the temporary structure is to be returned to its previously occupied site, the process for issuing a special use permit must be repeated in full. Any subsequent permit shall be valid for 180 days only.

SECTION 19-6 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$ 500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Concordia or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Concordia. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this ordinance are in compliance with the NFIP regulations.

SECTION 19-8 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

"100-year Flood" see "base flood."

"Accessory Structure" means the same as "appurtenant structure."

"Actuarial Rates" see "risk premium rates."

"Administrator" means the Federal Insurance Administrator.

"Agency" means the Federal Emergency Management Agency (FEMA).

"Agricultural Commodities" means agricultural products and livestock.

"Agricultural Structure" means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

"Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

"Appurtenant Structure" means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Building" see "structure."

"Chief Engineer" means the chief engineer of the division of water resources, Kansas Department Of Agriculture.

"Chief Executive Officer" or "Chief Elected Official" means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

"Community" means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Elevated Building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Eligible Community" or "Participating Community" means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

"Existing Construction" means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

"Flood Hazard Map" means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (see "flooding").

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

"Floodplain Management Regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

"Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable flood proofing design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

"Market Value" or "Fair Market Value" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

"New Construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

"(NFIP)" means the National Flood Insurance Program (NFIP).

"Participating Community" also known as an "eligible community," means a community in which the Administrator has authorized the sale of flood insurance.

"Permit" means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

"Recreational Vehicle" means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Remedy A Violation" means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

"Risk Premium Rates" means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

"Special Flood Hazard Area" see "area of special flood hazard."

"Special Hazard Area" means an area having special flood hazards and shown on a FIRM or FHBM as zones (unnumbered or numbered) A, AO, AE, or AH.

"Start of Construction" includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the NFIP in the state of Kansas.

"Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation, or a travel trailer, without wheels on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

"Substantial-Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial-Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial-damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project or improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Temporary Structure" means a structure permitted in a district for a period not to exceed 180 days and is required to be removed upon the expiration of the permit period.

Temporary structures may include recreational vehicles, temporary construction offices, or temporary business facilities used until permanent facilities can be constructed, but at no time shall it include manufactured homes used as residences.

"Variance" means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

ARTICLE 20

SUPPLEMENTAL DISTRICT REGULATIONS

Sections:

- 20-1 General**
- 20-2 Height and Yard Regulations**
- 20-3 Number of Structures on a Lot**
- 20-4 Sight Triangle**
- 20-5 Access to Commercial or Industrial-Zoned Property**
- 20-6 Screening for Commercial and Industrial-Zoned Property**
- 20-7 Temporary Uses**
- 20-8 Accessory Uses**
- 20-9 Fences**
- 20-10 Residential - Design Manufactured Housing Standards**

SECTION 20-1 GENERAL

20-101. The regulations set forth in this article qualify or supplement, as the case may be, the district regulations appearing elsewhere in these regulations.

SECTION 20-2 HEIGHT AND YARD REGULATIONS

20-201

- a. Height. Chimneys, cooling towers, elevator headhouses, fire towers, monuments, stacks, watertowers, or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy are not subject to the height limitations contained in the district regulations.
- b. Yard.
 - 1. *Front yards.* The front yards established by the district regulations shall be adjusted in the following cases:
 - (a) Where there is no recorded front building setback line established by platting and all of the structures on one side of a block are set back greater than required by the district regulations, a new or enlarged structure may be set in line with the structure closest to the street.

- (b) Where there is no recorded front building setback line established by platting and fifty (50) percent or more of the structures on one side of a block are setback less than required by the district regulations a new or enlarged structure may be set in line with the average of the existing structure or structures adjacent to the new or enlarged structure. However, no new or enlarged structure may be set closer to the front property line than ten (10) feet in a residential, commercial or industrial zone.

2. *Accessory buildings and structures.*

- (a) Accessory buildings or structures must be located behind the front building line; provided however that if the structure has a vehicular entrance directly from an alley such accessory building or structure shall be set no less than twenty (20) feet from the property line adjacent to the alley.
- (b) No detached accessory buildings or structures in a residential zoning district shall be located less than three (3) feet from any property line; provided however that a detached garage shall be set back no less than 20 feet from the property line facing the vehicle entryway of such garage.
- (c) Existing accessory buildings or structures which do not meet the minimum setbacks may be rebuilt, reconstructed or enlarged, providing they do not further decrease the existing setbacks.
- (d) Accessory buildings or structures of less than 200 square feet of ground floor area, and having a height not to exceed 12 feet as measured from the peak of the roof to ground level, shall be exempt from these regulations except for the prohibition against placement in front of the front building line.

3. *Structural projections.* Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings or structures, and except for:

- (a) Eave projections, sills, cornices and other ornamental features may project a maximum of twelve (12) inches into a required yard or setback.
- (b) Open fire escapes, balconies opening onto a fire escape, chimneys and fireplaces may project no more than three and one-half (3.5) feet into a required rear yard.
- (c) Unenclosed porches open to the sky and no more than three (3) feet above grade may project up to ten (10) feet into a front or rear yard, however front yard setbacks shall be no less than ten (10) feet,

4. Additional setback requirements are set out at Article 24.

SECTION 20-3 NUMBER OF STRUCTURES ON A LOT

20-301. Where a lot is used for other than a single family residence, more than one principal use or structure may be located on such lot, provided that such buildings conform to all requirements for the district in which they are located, and all such buildings shall remain in single ownership unless such buildings and lots are certified as a condominium.

SECTION 20-4 SIGHT TRIANGLE

20-401. Corner lots in all zoning districts shall comply with sight triangle requirements as set out in Article 24 of these regulations.

SECTION 20-5 ACCESS TO COMMERCIAL AND INDUSTRIAL ZONED PROPERTY

20-501. No land which is located in other than a commercial or industrial zone shall be used for ingress to or egress from any land in a commercial or industrial zone.

SECTION 20-6 SCREENING FOR COMMERCIAL AND INDUSTRIAL-ZONED PROPERTY

20-601.

- a. Commercial or industrial use adjacent to a residential zone. Whenever a commercial or industrial zoned tract adjacent to a residential zoning district is used, screening to protect the residential land from the affect of the commercial or industrial use shall be required.
- b. Type of screening required. Screening shall consist of a wall, fence or evergreen plantings six (6) to eight (8) feet in height having a visual density of at least ninety percent (90%). Screens adjacent to the front yard of a residential zone shall not exceed forty-eight (48) inches in height.
- c. Location of screen. All required screening shall be located within three (3) feet of the property line adjacent to the residential zone.
- d. Evergreen hedges or shrubs. Evergreen plantings shall be planted at a height of at least thirty-six (36) inches and shall reach the required height and effective screening within eighteen (18) months.
- e. Maintenance of screens. All required screens shall be permanently maintained in

good and effective condition, and whenever necessary, repaired or replaced.

- f. Installation prior to occupancy. Whenever screening is required, it shall be installed before occupancy of the commercial or industrial use is allowed. Where plantings are being used to accomplish the required screening and the season is unsuitable for planting, the owner shall submit a written verification, satisfactory to the Zoning Administrator, of when the required screening shall be planted.

SECTION 20-7 TEMPORARY USES

20-701.

- a. The following temporary uses may be permitted.
 1. Carnivals and circuses, located in a commercial or industrial zone or on public property.
 2. Contractor's office and equipment sheds on the site of a construction project only during the construction period.
 3. Model homes or development sales offices located within the subdivision or development area to which they apply.
 4. Outdoor temporary sales on private property and not incorporated or in partnership with the existing business located on that property in a commercial or industrial zone.
 5. Seasonal sales of farm or garden produce, bulbs, plantings or cut flowers, on an individual's place of residence and raised by the same individual, provided no structure is constructed for such use.
 6. One mobile home to be used as a temporary office for any allowable use in an industrial zoning district.
 7. Any other temporary use which in the discretion of the Zoning Administrator is comparable in character and impact to any of the temporary uses specifically identified in 1:6 above.
 8. Recreational vehicles, used for residential purposes, when located within the Manufactured Home Subdivision district and used in accordance with the following requirements:

- a. Electric. Must have electrical service provided by a City franchised utility, with connection and usage in compliance with all applicable City laws and regulations.
 - b. Other utilities. Connection to City water, sewer or other public utility is not required. However any connection and usage of any such service shall be in compliance with all applicable City laws and regulations.
 - c. Minimum area. No recreational vehicle shall be placed on a parcel of less than 1,500 sq. ft.
 - d. Spacing and setbacks. No recreational vehicle shall be located within either 10 feet of a lot line or less than 10 feet from another recreational vehicle, manufactured home, building or structure.
 - e. Temporary permit. The Zoning Administrator may issue a permit for a term of up to six (6) months upon submission of a complete and satisfactory application. Upon request the permit may, at the discretion of the Zoning Administrator, be extended for a maximum of an additional six (6) month period.
- b. Persons seeking approval for a temporary use authorized by items 1,2,4,7 and 8 in subsection 20-701.a. above shall make application to the Zoning Administrator at least ten (10) days in advance of the time desired for usage. Such application shall include a site plan showing existing and proposed usage. The Zoning Administrator may issue a certificate of temporary use upon the payment of the temporary use permit fee imposed by the fee ordinance, setting the period of time the temporary use may be allowed, and upon finding:
- 1. The temporary use will not impair the normal, safe and effective operation of any permanent use on the same or adjoining site.
 - 2. The temporary use will not adversely impact the public health, safety, or welfare and will not create traffic hazards or congestion.
 - 3. That adequate off-street parking is available for the temporary use and any permanent use on the site.
- c. The following conditions for a temporary use shall apply:
- 1. Such use when conducted upon a parking lot of another business shall not occupy more than twenty (20) percent of the required parking spaces of such uses.

2. No temporary use shall be located within the required setback of the site.
3. Any sign used in conjunction with the temporary use shall comply with all requirements of the sign regulations for temporary signs, including the obtaining of a sign permit.

SECTION 20-8 ACCESSORY USES

20-801. Accessory uses are permitted in any zoning district in connection with any permitted principal use.

- a. **Definitions.** An accessory use is a structure or use which:
 1. Is subordinate to and serves a principal building and principal use.
 2. Is subordinate in area, extent or purpose to the principal building or buildings served.
 3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served.
 4. Is located on the same tract as the principal building or principal use served.
- b. **Permitted accessory uses.** Any structure or use that complies with the terms of 20-801.a. of this article may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following:
 1. Private garages or carports or any combination thereof, not to exceed the following capacity of one thousand two hundred (1,200) square feet in area.
 2. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed four hundred (400) square feet in gross floor area.
 3. A children's playhouse.
 4. A private swimming pool and bathhouse.
 5. A guest house (without kitchen facilities) or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units or permanent occupancy as house-keeping units.

6. Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges and radio and television antennas.
 7. Storm shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
 8. Off-street parking and loading spaces as regulated by Articles 22 and 23 of these regulations.
 9. Retail sales of products manufactured, processed or fabricated on site.
 10. Storage of recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, motor homes, provided no such equipment is occupied for dwelling purposes.
 11. Restaurants, drug stores, gift shops, club and lounges and newsstands when located in a permitted hotel, motel or office building.
 12. Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
 13. Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
 14. Retail sales for permitted industrial uses when located on the same site as the industrial use.
 15. The storage of retail merchandise when located within the same building as the principal retail business.
- c. **Prohibited accessory uses.** None of the following shall be permitted as an accessory use:
1. Outdoor storage, except as specifically permitted in the district regulations.

SECTION 20-9 FENCES

20-901. Except as otherwise specifically provided elsewhere in these regulations or other codes and regulations of the City the following restrictions shall apply to the construction of all fences or improvements, replacements or extensions of existing fences.

- a. No fence shall be constructed without first obtaining a fence permit from the Zoning Administrator. The fee for a fence permit shall be an amount established by the City Commission by ordinance.

- b. No fence shall be constructed closer to the street than the front setback line established for the district in which such fence is to be erected; provided however, that a fence not exceeding four (4) feet in height may be constructed within a required front yard setback if the Zoning Administrator determines that such a fence otherwise complies with the regulations of this section.
- c. No fence shall be constructed in the sight triangle area or that would constitute a traffic hazard.
- d. A property owner may install a fence within a dedicated easement at his or her own risk of having to remove or repair such fence due to the lawful activities of persons or entities under the easement.
- e. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
- f. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which fence shall adversely affect the public health, safety and welfare.
- g. For corner lots the following rules shall apply: All sides adjacent to a street shall be considered front yards, one as the non-address side having less setback requirement. The primary front yard shall meet the applicable district setback. However, on corner lots back to back with another corner lot, the fence may be installed up to the non-address side property line, in the front yard setback area. In cases where corner lots not back to back with another corner lot, a chain link (or like material) fence only could be installed up to the non-address side property line, maximum of five (5) foot height, so as to not conflict with subsection F of this section. In cases where corner lots not back to back with another corner lot, a privacy fence, or one of similar nature, maximum of six (6) foot height, could be located in the front yard setback, no closer than ten (10) foot to the property line, subject to subsection F of this section.
- h. For institutional uses in residential districts, including schools, parks, hospital, cemeteries, and other like uses, a fence may be constructed in the front yard setback provided it complies with subsections c, d, e and f of this section, with a maximum of six (6) foot height.
- i. A fence may be erected in a commercial district to not more than ten (10) foot maximum height; however no barbed wire or electrification shall be attached.
- j. A fence may be erected in an industrial district to not more than ten (10) feet maximum height. Barbed wire may be used but such must be placed a minimum of six (6) feet above ground level.

SECTION 20-10 RESIDENTIAL-DESIGN MANUFACTURED HOUSING STANDARDS

20-1001.

- a. In order to be classified as a Residential-Design Manufactured Home a structure must be manufactured to the standards embodied in the National Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such structures shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable City regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width excluding bay windows, garages, porches, patios, pop-outs and roof overhangs; a pitched roof; siding and roofing materials which are customarily used on site-built homes; and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:
1. The roof must be predominantly double-pitched and have a minimum vertical rise of 2.5 inches for every 12 inches of horizontal run, and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, clay or concrete tile, slate or fiberglass, but excluding corrugated aluminum or corrugated fiberglass roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of ten (10) inches which may include a gutter.
 2. Exterior siding shall be of a nonreflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with City-adopted building codes.
 3. The home shall be installed in accordance with the recommended installation procedure of the manufacturer and the Uniform Building Code as adopted by the City.
 4. The running gear, tongue, axles and wheels shall be removed from the unit at the time of installation. Either a basement or a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the home.
 5. At the main entrance door there shall be a landing that is a minimum of 25 square feet which is constructed to meet the requirements of City-adopted

building codes.

6. On level sites, the main floor shall be no greater than twenty four (24) inches above the finished grade at the foundation. On sloping or irregular sites, the main floor at the side closest to grade level shall not be greater than twenty-four (24) inches above the finished grade at the foundation.
 7. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the City-adopted building codes and attached permanently to the primary structure and anchored permanently to the ground.
 8. Any attached addition to such a home shall comply with all construction requirements of the City-adopted building codes, unless designed and constructed by a manufactured home factory.
 9. If 50% or more of the frontage of existing site-built housing on both sides of the street on which the residential-design manufactured home is to be installed have a garage and/or a similar percentage have a covered porch or recessed entry, such a home shall also provide a garage and/or porch or entry based on the percentages determined by the Zoning Administrator. On a corner lot, "street" shall mean that street on which the frontage of the facade has been designated for the household address number. External roofing and siding material of such garage, porch or entry shall be similar in appearance to the materials on the roofing and siding of the residential-design manufactured home.
- b. For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home" as herein defined.

ARTICLE 21

NONCONFORMITIES

Sections:

- 21-1 General Provisions**
- 21-2 Nonconforming Lots of Record**
- 21-3 Nonconforming Structures**
- 21-4 Nonconforming Uses**
- 21-5 Nonconforming Manufactured Homes**

SECTION 21-1 GENERAL PROVISIONS

21-101. Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses. Special regulations governing nonconforming manufactured homes are set forth at Section 21-5. Each type of nonconformity is defined as follows:

- a. **Nonconforming lots of record:** Means an unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded with the Cloud County Register of Deeds prior to the original adoption of zoning regulations (Ord. No. 1829, effective date January 20, 1972) and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
- b. **Nonconforming structure:** Means an existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.
- c. **Nonconforming use:** Means an existing, lawful use of a structure or land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

SECTION 21-2 NONCONFORMING LOTS OF RECORD

21-201. The Zoning Administrator may issue a zoning certificate for any nonconforming lot of record, provided that:

- a. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and

- b. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
- c. Said lot can meet all yard regulations for the district in which it is located.

SECTION 21-3 NONCONFORMING STRUCTURES

21-301.

- a. **Authority to continue.** Any structure that is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.
- b. **Enlargement, repair, alterations.** Any nonconforming principal structure may be enlarged, maintained, repaired or remodeled. No such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. Provided, however, an enlargement which does not extend the nonconformity beyond the existing nonconformity shall not be an additional nonconformity or an increase in the degree of nonconformity.
- c. **Damage or destruction.** In the event that any nonconforming principal structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a principal structure is damaged to the extent of fifty (50) percent or less of its fair market value, no repairs or restoration shall be made unless a zoning certificate is obtained and substantial restoration is underway within one year after the date of such partial destruction and repair or restoration is diligently pursued to completion.
- d. **Moving.** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same lot or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

SECTION 21-4 NONCONFORMING USES

21-401.

- a. **Authority to continue.** Any nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land which was lawful and in existence at the effective date of these regulations and does not involve a structure or only involves a structure which is accessory to such use of land, may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.
- b. **Ordinary repair and maintenance.**
 1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
 2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.
- c. **Extension.** A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the following:
 1. Extension of such use to any structure or land area other than that actually physically occupied by such nonconforming use on the effective date of these regulations or on the effective date of subsequent amendments to these regulations that cause such use to become nonconforming.
 2. Extension of such use within a building or other structure to any portion of the floor area that was not actually physically occupied by such nonconforming use on the effective date of these regulations or on the effective date of subsequent amendments to these regulations that cause such use to become nonconforming; provided, however, that such use may be extended throughout any part of such building or other structure that is found by the Zoning Administrator to have been lawfully and manifestly designed or constructed for such use on such effective date.

- d. **Enlargement.** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- e. **Damage or destruction.** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its fair market value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is fifty (50) percent or less of fair market value, no repairs or restoration shall be made unless a zoning certificate is obtained, and substantial restoration is underway within one year after the date of such partial destruction and repair or restoration is diligently pursued to completion.
- f. **Moving.** No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
- g. **Change in use.** Unless structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or nonconforming structure and premises, may change to another nonconforming use provided that the Board of Zoning Appeals either by general rule or by making findings in the specific case, shall find that the proposed nonconforming use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards to protect surrounding areas and the public welfare, in accordance with Article 25. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.
- h. **Abandonment or discontinuance.** When a nonconforming use is discontinued or abandoned for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land or buildings shall comply with the regulations of the zoning district in which such land is located.
- i. **Nonconforming accessory uses.** No nonconforming use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

SECTION 21-5 NONCONFORMING MANUFACTURED HOMES

21-501. The removal and relocation of manufactured homes, other than residential-design manufactured homes, in the R-1, R-2 and R-3 Districts shall be governed by the following regulations:

- a. Upon removal of a nonconforming manufactured home, unless another manufactured home is moved onto the same lot within sixty (60) days from the date that the previous manufactured home was moved off the lot, such use is forfeited and shall not thereafter be reestablished.
- b. Any manufactured home moved in accordance with a. above shall be placed on a permanent, enclosed perimeter foundation within thirty (30) days from the date it is moved onto the lot.
- c. No manufactured home shall be moved onto the lot if such will result in an increase in nonconformity with respect to lot size, yard or bulk requirements.
- d. No manufactured home shall be moved onto the lot if its location shall place it within twenty feet (20') of a principal building or ten feet (10') of an accessory building.
- e. Upon proper application the Board of Zoning Appeals may grant an exception to the time requirements of subsections a. and b. above upon a finding by the Board of hardship for the party who would reside in the manufactured home upon its relocation.

ARTICLE 22

OFF-STREET PARKING REGULATIONS

Section:

- 22-1 Purpose
- 22-2 General Provisions
- 22-3 Layout and Design Requirements
- 22-4 Permit Required
- 22-5 Required Parking Spaces
- 22-6 Exceptions by Board of Zoning Appeals
- 22-7 Design Standards

SECTION 22-1 PURPOSE

22-101. These regulations require off-street parking proportional to the need created by each use in order to ensure functionally adequate, aesthetically pleasing, and secure off-street parking facilities. Regulations and standards are intended to ensure usefulness of parking and loading facilities, to protect public safety, and where appropriate, to limit potential adverse impacts on adjacent property.

SECTION 22-2 GENERAL PROVISIONS

22-201. Applicability. Off-street parking facilities, as required in this Article, shall be provided for any new building and for any new use established, additions to existing use, or any change in manner of use which results in increased capacity. Additional parking need only be provided for the addition, enlargement, or change and not the entire building or use. No off-street parking facilities shall be required in the C-4 Central Business District.

22-202. Maintenance. All existing and required parking facilities shall be maintained and shall not be reduced so long as the use requiring such parking remains.

22-203. Utilization. Required off-street parking facilities shall be located on the same site as the use for which such facilities are required, except as authorized by Section 22-6. Such facilities shall be used exclusively for temporary parking of motor vehicles and shall not be utilized for sale or storage of merchandise, or for storage or repair of vehicles, equipment or trailers.

22-204. Residential districts. Parking facilities which make provisions for more than three (3) vehicles shall not be located within the required front yard for the district.

22-205. Computation. Where the determination of number of off-street parking spaces required results in a fractional part of a space, a fraction of one-half or more shall be counted as a full space and a fraction of less than one-half shall be disregarded. Where requirements are established on the basis of seats or person capacity, the Uniform Building Code provisions applicable at the time shall be used to calculate maximum design capacity.

22-206. Compact cars. In every off-street parking facility of ten (10) or more spaces, a maximum of ten (10) percent of the required number of spaces may be designed for compact cars. For the purpose of this section, a compact car is a motor vehicle with an overall length which does not exceed fourteen (14) feet.

22-207. Zoning Administrator. The Zoning Administrator is authorized to approve minor variations from the size and number of parking spaces otherwise required under this Article when, in his or her discretion, such variation does not violate the purpose of these regulations and does not harm public health, safety or welfare.

SECTION 22-3 LAYOUT AND DESIGN REQUIREMENTS

22-301. Area size. Each required parking space shall consist of a rectangular area of not less than nine (9) feet in width, by nineteen (19) feet in length. Each space for compact cars, when allowed by this Article shall consist of a rectangular area of not less than eight (8) feet in width, by seventeen (17) feet in length. All required spaces shall be clearly marked and defined.

22-302. Access. Except in R-1 and R-2 districts, each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. Streets and alleys shall be used only for access to and from parking facilities and shall not be used for maneuvering of vehicles. Any alley used for access to other than a single-family residence shall be paved according to City-adopted specifications.

22-303. Design standards. Minimum parking facility design standards shall comply with Section 22-7.

22-304. Driveways. Driveway location and spacing shall comply with the Corridor Management Policy Manual of the Kansas Department of Transportation. Site plans for commercial properties shall include a traffic impact analysis and an internal traffic circulation plan making full use of shared entrances.

22-305. Surfacing. (a) All off-street parking facilities, loading areas, vehicular storage areas and drives and access to and from such areas shall be surfaced and maintained with four (4) inches of asphalt, or concrete to create a permanent all-weather, dust-free surface. Such paving must be completed prior to occupancy of the facility that the paving is intended to serve, unless temporary occupancy approval is received from the site plan review committee.

- (b) Gravel areas in existence prior to the effective date of these regulations may be maintained with six (6) inches of gravel, including base, as an alternative to these surfacing requirements.
- (c) The site plan review committee may, upon receiving a specific written request from an owner of a property, authorize temporary occupancy for a time period not to exceed twelve (12) months prior to accomplishing the required paving or a portion thereof.
- (d) In reviewing a request for temporary occupancy prior to accomplishing required paving, the site plan review committee shall consider the following criteria:
 - (1) Season of the year.
 - (2) Affect on the adjoining property.
 - (3) Surfacing of the connecting street.
 - (4) Surfacing of existing adjoining parking facilities.
- (e) Should the owner receive approval of the site plan review committee for a delay in paving, the owner shall, prior to occupancy, present written verification to the Zoning Administrator that guarantees all paving shall be complete prior to the deadline given by the site plan review committee.
- (f) Parking facilities, loading areas, vehicular storage areas and drives and access to and from such areas in industrial-zoned districts may also utilize pavers or grids, and portions of such areas may remain unimproved until such time as the Planning Commission deems it must be improved. Such delayed improvement shall be permitted only following a determination by the Planning Commission that usage of the improved portion adequately serves the initial occupancy of the property and that the site plan clearly indicates the location, pattern and circulation to and from the delayed parking, loading and storage areas.

22-306. Lighting. Any lighting provided to illuminate any parking facility shall be designed and installed in such a manner as to reflect away from any residential use upon adjoining properties.

22-307. Drainage. All parking facilities shall be graded and/or designed with storm drainage facilities so as to channel surface water away from adjoining properties and to an approved storm drainage system.

22-308. Parking facilities in residential districts. Any parking facilities for eight (8) or more vehicles (1) when in residential zoning districts and (2) which are adjacent to a residential or mobile home-zoned district, shall have a screened fence or wall to prevent the passage of vehicular lights and to prevent the blowing of debris. Such fence or wall shall be at least six (6) feet in height and have a visual density of not less than seventy percent (70%).

SECTION 22-4 PERMIT REQUIRED

22-401. Plans showing the layout, landscaping and design of all off-street parking, loading, or other vehicular use areas shall be submitted to, and approved by the zoning administrator prior to beginning construction. A permit shall be obtained prior to starting work on any parking area designed to accommodate four or more vehicles. Fees for new parking lots shall be as established by ordinance by the Governing Body.

SECTION 22-5 REQUIRED PARKING SPACES

22-501. Off-street parking spaces shall be provided as follows:

<u>Residential Uses:</u>		<u>Minimum Off-Street Parking Spaces</u>
1. Single-family		2 spaces per unit for residences on lots 50= or less in width and 3 spaces for residences on lots greater than 50= in width.
Two-family		2 spaces per unit for residences on lots 50= or less in width and 3 spaces for residences on lots greater than 50= in width.
Multiple-family:		
Efficiency		1 space per unit
One or more bedrooms		2 spaces per unit
2. Dormitories, fraternities, sororities		1 space for each 2 persons based on maximum design capacity
3. Lodging houses, rental sleeping rooms in a dwelling unit		1 space for each 2 tenants
4. Housing designed specifically for the elderly		1 space for each dwelling unit, plus additional requirements set forth in regulations for the EH-O District
5. Nursing home, rest home or convalescent home		1 space for each 3 beds based on maximum design capacity
6. Mobile home park or subdivision		2 spaces per unit
<u>Nonresidential Uses:</u>		<u>Minimum Off-Street Parking Spaces</u>
1. Automobile, truck, recreation vehicle, mobile home sales and rental lots		1 space per 3,000 square feet of display area, plus 1 space per employee

- | | | |
|----|---|--|
| 2. | Automobile car wash | 3 holding spaces for each stall, plus 1 drying space per stall |
| 3. | Banks, business or professional offices | 1 space for each 200 square feet up to 1,000 square feet, plus 1 space for each 400 square feet thereafter |

Nonresidential Uses: Minimum Off-Street Parking Spaces

- | | | |
|-----|---|---|
| 4. | Bed and breakfast inns | 1 space per rental unit |
| 5. | Bowling alleys | 5 spaces for each lane or alley |
| 6. | Churches and similar places of worship | 1 space for each 4 seats in the sanctuary |
| 7. | Community College or high school | 1 space for each 3 employees, plus 1 additional space for each 15 students enrolled |
| 8. | Day care or nursery schools | 1 space for each 15 students enrolled |
| 9. | Elementary, junior high schools, and equivalent parochial or private schools | 2 spaces per classroom |
| 10. | Fraternal associations | 1 space each 4 persons based on maximum design occupancy |
| 11. | Funeral homes and mortuaries | 1 space for each 4 seats based on maximum design capacity plus 1 space per employee |
| 12. | Furniture and appliance stores | 1 space per 400 square feet of floor area |
| 13. | Hospitals | 1 space for each 3 beds, plus 1 space for each 2 employees on a maximum shift |
| 14. | Laundromats | 1 space for every 2 washing machines |
| 15. | Manufacturing, processing, assembly plants | 1 space for each 1.5 workers on a maximum shift |
| 16. | Medical and dental clinics | 5 spaces for each doctor or dentist |
| 17. | Motel and/or hotels | 1.2 spaces per rental unit plus 1 space for each 2 employees per working shift |
| 18. | Motor vehicle repair or body shop | 1 space for each 2 employees, plus 1 space per service bay |
| 20. | Restaurants with fixed seating, provided that drive-up restaurants shall provide a minimum of 10 spaces | 3 spaces for each 5 seats, based on maximum designed occupancy |

21. Retail stores and shops	1 space per 250 square feet of retail area
22. Service stations	1 space for each employee, plus 2 spaces per service bay
23. Taverns, private clubs	1 space for each 3 persons based on maximum design capacity
24. Theaters, auditoriums, assembly places with fixed seating	1 space for each 3.5 seats
<u>Nonresidential Uses:</u>	
<u>Minimum Off-Street Parking Spaces</u>	
25. Theaters, auditoriums, assembly places without fixed seating	1 space for each 4 persons based on maximum design capacity
26. Trade, commercial schools	1 space for each 3 students and employees
27. Warehouse, storage, wholesale establishments	1 space for each 2 employees
28. All other uses not specified above	1 space per each 200 square feet of floor area

SECTION 22-6 EXCEPTIONS BY BOARD OF ZONING APPEALS

22-601. Districts permitted. In order to provide off-street parking areas, the Board of Zoning Appeals may, after public notice and hearing, grant as an exception, the establishment of parking areas in any zoning district under the following provisions:

- a. **Location.** Parking provided under this section must be within three hundred (300) feet (along lines of public access) from the boundary of the use for which the parking is provided. Access to such parking facilities from the use must be adequately lighted to provide for safety of the public.
- b. **Use.** The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of vehicles, equipment, materials or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
- c. **Improvements.** Parking areas and driveways on private property providing ingress and egress to parking areas shall be surfaced with concrete or asphalt to the specifications of the City Engineer and shall be maintained in good condition and free of all weeds, dust, trash, and other debris.

- d. **Guards.** Parking areas shall have adequate guards to prevent extension or the overhanging of vehicles beyond property lines or parking spaces; and parking areas shall have adequate markings for channelization and movement of vehicles.
- e. **Screening.** A fence (such as solid-wall masonry, wood, louvered wood, metal or other similar materials) at least six (6) feet high and having a density of not less than seventy (70) percent per square feet, shall be erected along any property line adjacent to or adjoining any dwelling district to eliminate the passage of light from vehicles and to prevent the blowing of debris. Whenever a fence shall be required along a front yard, such fence shall not be higher than forty-eight (48) inches and such fence shall be located within one foot of the front yard setback line. Fences along said yards shall not extend nearer to the street than the front yard setback line.

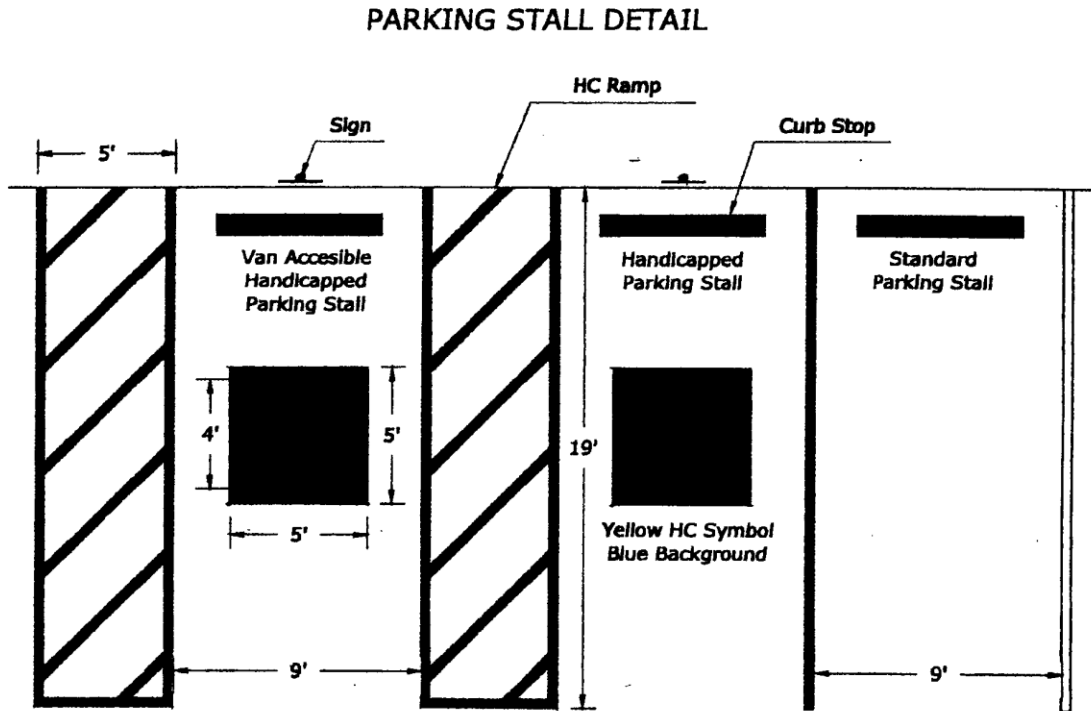
22-602. Alternate surface. The Board of Zoning Appeals, after due public notice and hearing, may grant a variance to the surfacing materials required in this article.

22-603. Exception revocable. The Zoning Administrator shall be responsible for the enforcement of the conditions and requirements made by the Board of Zoning Appeals in the approval of any off-street parking exceptions. The Zoning Administrator, upon discovery of any violation of this regulation or the conditions and requirements established by the Board, shall notify the Board through its secretary as to such violations. The Board of Zoning Appeals is hereby authorized to revoke the exception after public hearing for any of the following reasons:

- a. Abandonment of the area for use for parking purposes for six (6) continuous months.
- b. Failure to comply with the requirements contained in this section, or other requirements imposed by the Board.

SECTION 22-8 DESIGN STANDARDS

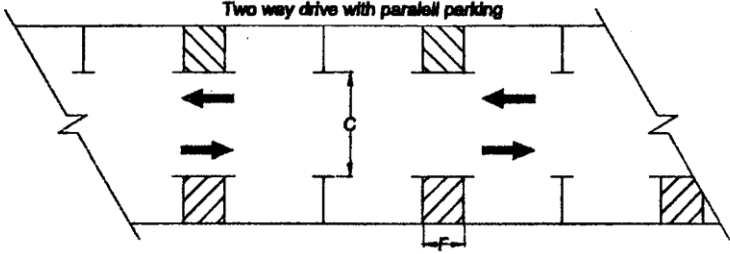
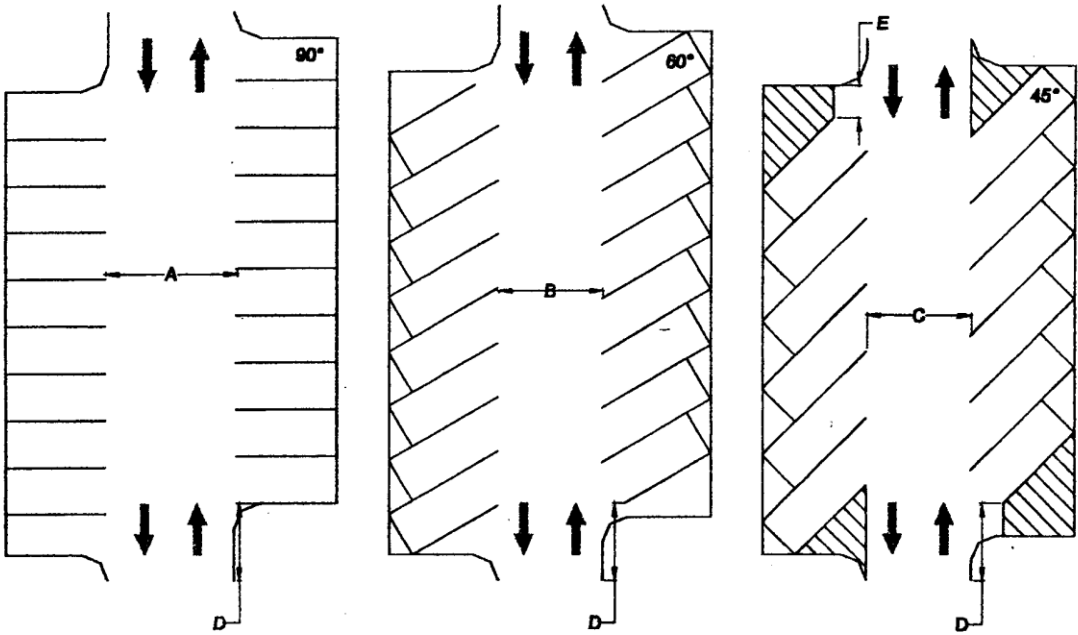
22-801. Minimum off-street parking standards:



1. 1 HC stall required per 25 parking spaces.
2. Curb Cut required for HC ramp at head of each HC loading area.
3. 12" x 18" HC parking sign required for every HC stall.
4. HC loading area hash spacing is 3' to 4'.
5. HC stall striping is yellow, standard stall striping is white.
6. All striping 4" to 5" wide.
7. Standard and HC stall size is 9' x 19'.
8. Approved wheel stops required within 3' of a sidewalk or building.

PARKING LOT DIMENSIONS

Two Way Traffic

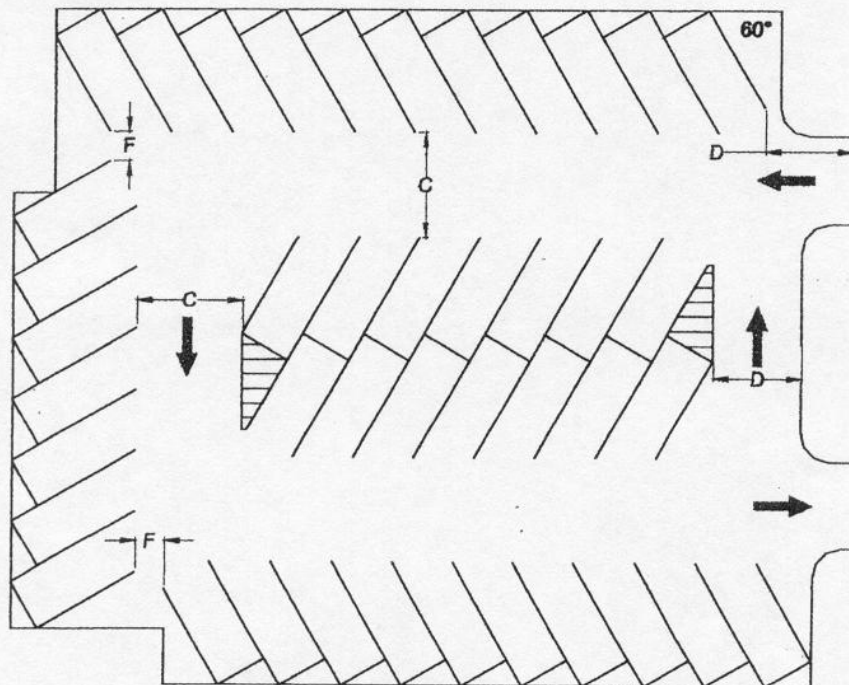
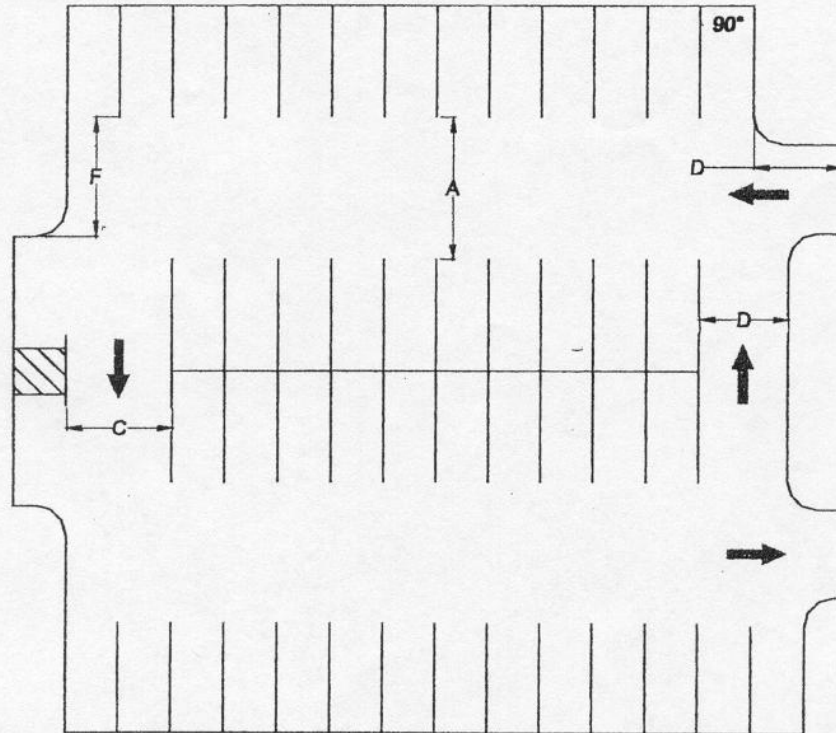


	Standard	*Minimum
A	25'	20'
B	23'	18'
C	20'	15'
D	15'	12'
E	10'	8'
F	8'	6'

*Must be approved by Zoning Administrator prior to construction.

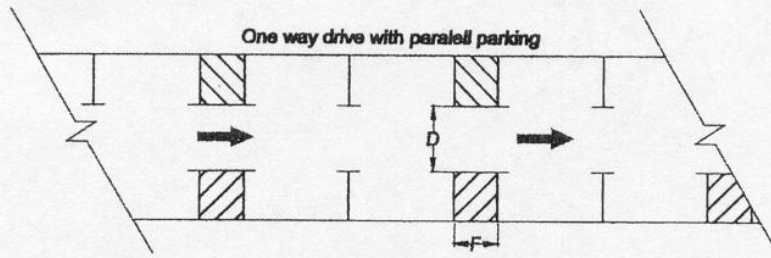
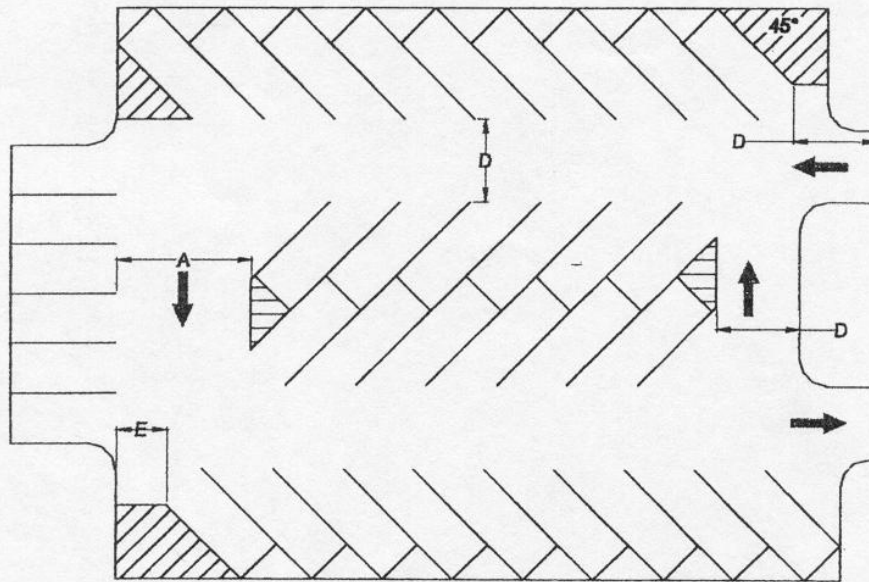
PARKING LOT DIMENSIONS

One Way Traffic



PARKING LOT DIMENSIONS

One Way Traffic



	Standard	*Minimum
A	25'	20'
B	23'	18'
C	20'	15'
D	15'	12'
E	10'	8'
F	8'	6'

*Must be approved by Zoning Administrator prior to construction.

ARTICLE 23

LOADING AND UNLOADING REGULATIONS

Sections:

- 23-1 Space Requirements**
- 23-2 Districts Requiring Space**

SECTION 23-1 SPACE REQUIREMENTS

23-101. On-premise loading and unloading spaces shall be provided off-street and in the side or rear for such uses involving receipt or distribution of materials or merchandise by motor vehicle or rail. All loading and unloading operations shall be located to avoid undue interference with traffic and public use of streets, alleys and walkways. Such space shall include a minimum of twelve (12) feet by twenty-five (25) feet for loading and unloading operations and shall have a minimum height clearance of fourteen (14) feet. The number of spaces shall be provided as follows:

<i>Number of Spaces</i>	<i>Gross Floor Area in Square Feet</i>
1.....	3,000 to 20,000
2.....	20,000 to 40,000
3.....	40,000 to 60,000
4.....	60,000 to 80,000
5.....	80,000 to 100,000
6.....	100,000 to 150,000

One additional space shall be provided for each fifty thousand (50,000) square feet above one hundred fifty thousand (150,000) square feet.

SECTION 23-2 DISTRICTS REQUIRING SPACE

23-201. Loading and unloading spaces shall be provided in the following zoning districts:

- a. "C-1" Office and Service Business.
- b. "C-2" Restricted Commercial.
- c. "C-3" General Commercial.
- d. "I-1" Light Industrial.
- e. "I-2" Heavy Industrial.

ARTICLE 24

BUILDING SETBACKS

Sections:

- 24-1 General Provisions**
- 24-2 Arterial and Collector Streets**
- 24-3 Sight Triangle**
- 24-4 Gas Pumps and Canopies**
- 24-5 Order of Precedence**

SECTION 24-1 GENERAL PROVISIONS

24-101. For purposes of determining the applicability of building setback lines established in these regulations, the following rules shall govern:

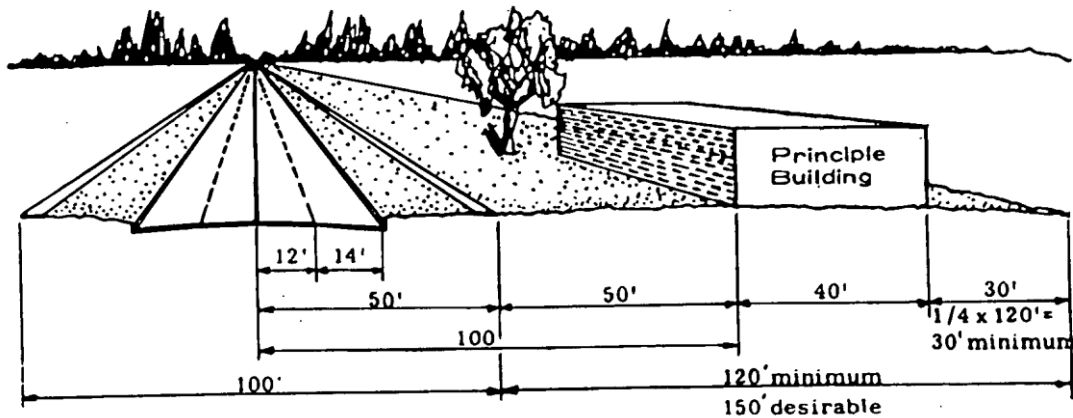
- a. Except as otherwise provided at b. and c., below, whenever any two or more provisions in these regulations establish building setback lines that are applicable to a given building or structure, the regulation establishing the more restrictive standard shall be the regulation which controls.
- b. Where a building setback line for a front, side or back yard is established on any plat approved and recorded in accordance with regulations in existence at the time of recording, which platted setback is more restrictive than the yard requirements established in these regulations, such platted setbacks shall control and building permits shall not be issued for any building or structure outside of such platted setback.
- c. Where a building setback line for a front, side or back yard is established on any plat approved and recorded in accordance with regulations in existence at the time of recording, which platted setback is less restrictive than the yard requirements established in these regulations, such platted setbacks shall control, and building permits may be issued for a building or structure which would be located in the yard under these regulations.

SECTION 24-2 ARTERIAL AND COLLECTOR STREETS

24-201. Building setback lines are hereby established for all arterial and collector streets as shown on the major street map of the comprehensive plan. The setback lines as established in this Article shall be held to be the minimum for the purpose of promoting the public health, safety, order, convenience and economy in the process of development.

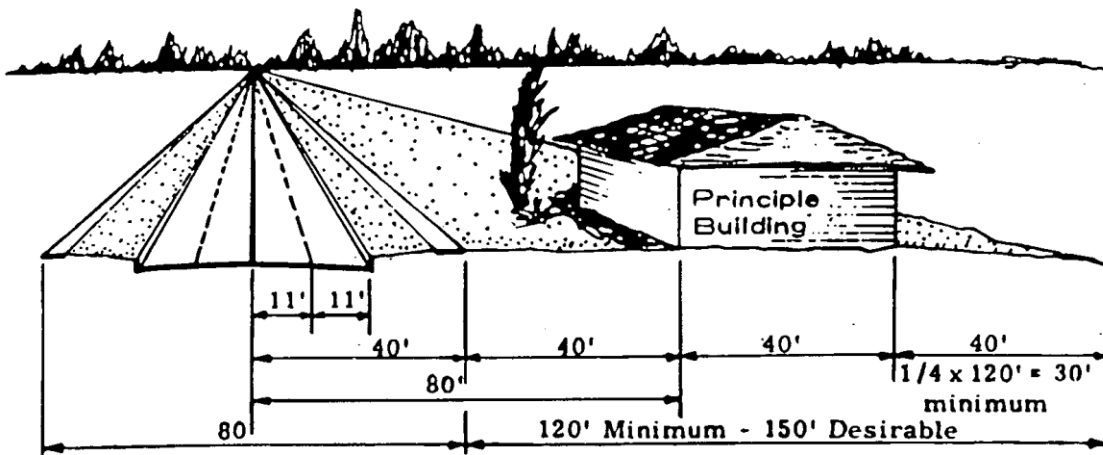
24-202. No lot which is adjacent to an arterial street having a right-of-way width of one hundred (100) feet or less shall have any building or structure altered, constructed, enlarged or erected closer than one hundred (100) feet from the centerline of the arterial street right-of-way (See Figure 24-1 below). Where the right-of-way width is greater than one hundred (100) feet the building or structure shall set back fifty (50) feet from the adjoining street right-of-way line.

FIGURE 24-1
BUILDING SETBACK LINE ON ARTERIAL STREETS



24-203. No lot which is adjacent to a collector street shall have a building or structure altered, constructed, enlarged or erected closer than eighty (80) feet from the center line of the collector street right-of-way. (See Figure 24-2 below.)

FIGURE 24-2 BUILDING SETBACK LINE ON COLLECTOR STREETS



SECTION 24-3 SIGHT TRIANGLE

24-301. Corner lots shall be free from any visual obstruction between a height of two and one-half (2-1/2) feet and eight (8) feet above the grade of the top of the curb of the adjoining street. This sight triangle area shall be determined by the "Visibility Triangle for Driveways and Side roads (Stop Condition)" table in the current KDOT Corridor Management Policy Manual. The table distances shall be applicable to all highways or streets without regard to street classification.

SECTION 24-4 GAS PUMPS AND CANOPIES

24-401. Where allowed, gasoline or other fuel dispensing pumps, excluding canopies, may be located not less than twelve (12) feet from any property line if at least forty (40) feet from the center of any street.

24-402. Canopies covering gas or other fuel pumps may be located so that no part of the structure is less than ten (10) feet from the property line. Such structures shall meet all other setback requirements in these regulations.

ARTICLE 25

BOARD OF ZONING APPEALS

Sections:

- 25-1 Board Organization and Procedure**
- 25-2 Appeals**
- 25-3 Variances**
- 25-4 Exceptions**
- 25-5 Determinations of Board**
- 25-6 Applications for Board Hearings**
- 25-7 Public Hearing Required**
- 25-8 Performance Upon Grant of Variance or Exception**
- 25-9 Appeals from Board Decisions**

SECTION 25-1 BOARD ORGANIZATION AND PROCEDURE

25-101. A Board of Zoning Appeals is created in accordance with the provisions of K.S.A. 12-741 et seq. and amendments thereto. Such board shall consist of five (5) members all of whom must be residents of the City of Concordia, appointed by the Governing Body. All members shall be appointed for three (3) year terms. Vacancies shall be filled by appointment for the unexpired term of the member vacating. One member of the board shall be a member of the Concordia Planning Commission.

25-102. The board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings, including the establishment of a quorum and voting requirements. Board rules shall not be in conflict with other laws, regulations or ordinances. A majority of the board shall constitute a quorum for the transaction of business. The concurring vote of a majority of the entire membership of the board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator or to decide in favor of the applicant upon any matter which it is required to pass under these regulations or to affect any variation in these regulations. When the board fails to receive a motion for a recommendation on an appeal, or application for a variance or exception, the board shall be deemed to have denied the appeal or application.

The board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the board, the decision of the board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the board and shall be public record.

25-103. The secretary of the Concordia Planning Commission shall serve as the secretary of the Board of Zoning Appeals.

25-104. The Board of Zoning Appeals shall meet as needed to consider the business before it. The board shall select one of its members as chair and one as vice-chair, who shall serve one year and until their successors have been selected. Special meetings may be called at any time by the chair or in the absence of the chair, by the vice-chair.

SECTION 25-2 APPEALS

25-201. The Board of Zoning Appeals shall have the power to:

- a. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.
 1. Appeals to the board may be taken by the person aggrieved, or by any officer, department or bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within sixty (60) days after a ruling has been made by the Zoning Administrator. The Zoning Administrator shall forthwith transmit to the secretary of the board all papers constituting the record upon which the action appealed from is taken.
 2. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the board, after the notice of appeal shall have been filed by reason of facts stated in the certificate, that a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.
 3. An appeal shall be sustained only if the board finds that the Zoning Administrator's action was based on an erroneous finding of a material fact, or that he or she acted in an arbitrary or capricious manner or abused his or her discretion.

SECTION 25-3 VARIANCES

25-301. The board shall have the power to authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

- a. The applicant must show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of his or her property in the manner similar to that of other property in the zoning district where it is located.
- b. Variances from these regulations may be granted only in the following instances:
 - 1. To vary from the applicable lot area and width, height and yard regulations.
 - 2. To vary from the applicable off-street parking and loading requirements.
 - 3. For certain detached accessory structure in floodplains, as provided in section 19-4, a.7 of these regulations.
- c. A request for a variance may be granted, upon a finding of the board that all of the following conditions have been met. The board shall make a determination on each condition, and the finding shall be entered in the record:
 - 1. The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by action of the property owner or applicant.
 - 2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 - 3. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 - 4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 - 5. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- d. In granting a variance, the board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

- e. Whenever the board grants a variance the results of such action will be recorded with the Register of Deeds of Cloud County by the secretary, after the passage of the thirty (30) day appeal period.

SECTION 25-4 EXCEPTIONS

25-401.

- a. The board shall have the power to grant exceptions to the provisions of these zoning regulations, when expressly authorized to do so by these regulations in a particular zoning district or districts. In no event shall exceptions to the provisions of the zoning regulations be granted where the exception contemplated is not specifically listed in the zoning regulations. The board shall not grant an exception when the conditions established by this section are not found to be present. The board shall not grant an exception which would be contrary to Section 3-5 or any other provision of these regulations.
- b. The board shall not grant an exception unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
 - 1. The proposed exception complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
 - 2. The proposed exception at the specified location will contribute to and promote the welfare or convenience of the public.
 - 3. The proposed exception will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
 - 4. The location and size of the exception, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the exception will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the exception will so dominate the immediate neighborhood, consideration shall be given to:
 - (a) The location, nature and height of buildings, structures, walls and fences on the site, and
 - (b) The nature and extent of landscaping and screening on the site;

5. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect;
6. Adequate utility, drainage and other such necessary facilities have been or will be provided; and
7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

SECTION 25-5 DETERMINATIONS OF BOARD

25-501. In exercising the foregoing powers, the board may reverse or affirm, wholly or partly, or may modify any order, requirements, 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 zoning certificate.

SECTION 25-6 APPLICATIONS FOR BOARD HEARINGS

25-601.

- a. The procedure for requesting a hearing before the board shall be as follows:
 1. All applications to the board shall be in writing on forms provided by the Zoning Administrator. Applications shall be completed in their entirety and filed in the office of the Zoning Administrator with all supporting data. The Zoning Administrator may require any legal description submitted as part of an application to be certified by a registered surveyor and shall determine whether the filed application is complete.
 2. The Zoning Administrator may require the applications to be accompanied by an ownership list, certified by a registered abstractor, listing the legal description and the names and addresses of the owners of all property located within two hundred (200) feet of the boundaries of the property included in the application. Whenever any portion of the property that is the subject of the application is within two hundred (200) feet of the city limits the

applicant shall provide such an ownership list for the property within one thousand (1,000) feet of the boundaries of the property included in the application.

3. The board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official city newspaper at least twenty (20) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, and each person on the ownership list fifteen (15) days prior to the hearing.
 4. An application shall be accompanied by the filing fee required by the City Commission. A separate filing fee shall be required for each application.
- b. In addition to the above requirements, certain applications must meet additional requirements as follows:
1. Appeals.
 - (a) An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the Zoning Administrator.
 - (b) A copy of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error shall be submitted.
 - (c) A clear and accurate written description of the proposed use, work or action in which the appeal is involved, and a statement justifying the applicant's position.
 - (d) Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.
 2. Variances.
 - (a) The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five (5) conditions as set out in Section 25-301. c.
 - (b) The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other

information which would be helpful to the board in consideration of the application should be included.

3. Exceptions.

- (a) The applicant shall submit a statement in writing justifying the exception applied for and indicating under which article and section of the zoning regulations the Board of Zoning Appeals is believed to have jurisdiction.
- (b) The applicant shall prepare and submit in duplicate at the time of filing the application a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the board in consideration of the application.

SECTION 25-7 PUBLIC HEARING REQUIRED

25-701. The board shall hold a public hearing on each application for an appeal, variance or exception. On all applications, notice of time and place of the public hearing shall be published once in the official city newspaper not less than 20 days prior to the date of such public hearing. In addition, for all applications for a variance or exception all property owners within 200 feet of the subject property (1,000 feet when the subject property is adjacent to the city limits) shall be notified by certified mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or exception.

SECTION 25-8 PERFORMANCE UPON GRANT OF VARIANCE OR EXCEPTION

25-801.

- a. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations, the board shall impose such restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.
- b. The board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc.

The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the board and shall be enforceable by or payable to

the Governing Body in a sum less than or equal to the cost of constructing the required improvements.

- c. In lieu of the performance bond requirements, the board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the board may declare the granting of the application null and void after reconsideration
- d. After the board has approved an exception or granted a variance, the exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such exception or variance was granted, and the provisions of these regulations shall thereafter govern.

SECTION 25-9 APPEALS FROM BOARD DECISIONS

25-901. In exercising its powers, the board, in conformity with the provisions of this article, 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 the board may bring an action in the District Court of Cloud County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by the board, in accordance with state law.

ARTICLE 26

AMENDMENT PROCEDURES

Sections:

26-1	General Authority and Procedure
26-2	Conditional Zoning
26-3	Table of Lesser Change
26-4	Time of Performance in Rezoning
26-5	Conditional Use Permits
26-6	Fees for Rezonings and Conditional Use Permits

SECTION 26-1 GENERAL AUTHORITY AND PROCEDURE

26-101. Who May Petition or Apply.

- a. Applications for amendments, revisions or changes in the zoning district boundary maps or for a Conditional Use Permit may be made by any person who owns the land for which such an amendment, revisions, change or Conditional Use Permit is sought, or by the owner's agent. If such application is made by the owner's agent, that agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for the owner prior to the setting of any public hearing.
- b. Applications for amendments, revisions or changes to the zoning regulations, the zoning district boundary maps and/or conditional use may also be made by the Planning Commission or the Governing Body. Any such proposed amendments, revisions, changes, or conditional use shall be submitted to the Planning Commission for recommendation and report with the final decision made by the Governing Body.

26-102. Procedures for Consideration of Request for Amendments, Revisions or Changes.

- a. All applications or requests for amendments, revisions or changes to the zoning regulations, the zoning district boundary maps or for a Conditional Use Permit shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator. The payment of any applicable fee shall be made at the time of the submission of the application.

Immediately upon receipt of an application for rezoning or conditional use by the owner, or agent, and the payment of the appropriate fee, the Zoning Administrator

shall note on the application the date of filing and make a permanent record thereof.

- b. All such proposed applications for amendment, revisions or changes to the zoning regulations and/or for a conditional use shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing on the application and shall cause a written summary to be made of the proceedings. Notice of the hearing shall be published once in the official city newspaper at least 20 days prior to the date of the hearing. The date of newspaper publication and the date of the hearing shall not be included in the calculation of 20 days. Notice shall fix the time and place for the hearing, shall give the name and address of the applicant, and shall contain a statement regarding the proposed changes in regulations or restrictions, or proposed change in the boundary or classification of any zone or district, or the requested conditional use.
- c. If the application is not a general amendment, revision or change to the zoning regulations, but is for a rezoning or Conditional Use Permit affecting specific property, the property affected shall be designated by legal description and by a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of the proposed rezoning or conditional use shall be mailed at least 20 days before the public hearing to all owners of record of the property affected and all owners of record of lands located within at least 200 feet of the area proposed to be altered. In accordance with state law such notice shall extend 1000 feet in those areas where the notification area extends outside the corporate limits of the City. All notices shall include a statement that a complete legal description is available for public inspection in the office of the Zoning Administrator. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission and shall not invalidate any subsequent action taken by the Planning Commission or Governing Body. The applicant shall provide a list of the owners of record, such list certified by a licensed abstractor, of said lands at the time of the filing of the application.
- d. In the case of an application by the Planning Commission or the Governing Body, all the above stated requirements shall be followed except:
 - 1. No fee shall be required.
 - 2. If the application is for an amendment or revision to the text of the zoning regulations, notice of the public hearing shall not be required to be mailed to all affected persons; therefore, a certified list of the owners of land shall not be required.

26-103. Public Hearing Before Planning Commission. The Planning Commission shall hold the public hearing at the place and time so stated within the legal notice. The hearing may be adjourned from time to time, and at the conclusion of the hearing the Planning Commission shall take action on the request by preparing a recommendation either to approve, approve with conditions as authorized by these regulations, or disapprove the application. Any such action must be approved by a majority of the members of the Planning Commission present and voting at the hearing.

When the Planning Commission fails to make a recommendation on an application, the Planning Commission shall be deemed to have made a recommendation of disapproval. Any hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.

26-104. Action by Planning Commission and Governing Body.

- a. **Recommendations.** Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the Governing Body. The recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included. If a motion for approval fails to gain approval for any reason, the application is deemed to have been denied and will be submitted to the Governing Body. If the recommendation is for approval, the recommendation shall be in the form of an ordinance.
- b. **Amendments to text.** When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and its reasons for recommending approval or denial.
- c. **Adoption of amendments.** The Governing Body shall not consider an amendment which would result in a change of zoning classification for a specific property, or any application for a Conditional Use Permit, until its next regular meeting after the lapse of the fourteen (14) day protest period provided by state law. A proposed amendment which changes the text of the regulations but would not result in change of zoning classification of any specific property may be considered by the Governing Body without waiting for the lapse of the fourteen (14) day protest period. Upon receipt of the recommendation of the Planning Commission and any protest petitions that have been submitted, the Governing Body shall consider the application and may 1) approve the recommendation of the Planning Commission without change; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or 3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. Upon return of a recommendation from the

Planning Commission, the Governing Body may take whatever action it deems necessary. Whenever a proposed amendment is defeated by vote of the Governing Body, such amendment shall not thereafter be passed without a further public hearing and notice thereof as provided in this article.

- d. If such amendment or Conditional Use Permit affects the boundaries of any zone or district, the ordinance shall describe the boundaries as amended, or if provision is made for the fixing of the same upon the official maps which as been incorporated by reference, the amending ordinance shall define the change or the boundary as amended, shall order the official maps be changed to reflect such amendment or conditional use, shall amend the section of the ordinance incorporating the same and shall reincorporate such maps as amended.

26-105. Protest Petition. Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment, revision, change, or Conditional Use Permit, if a protest petition against such amendment is filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of twenty (20) percent or more of any real property proposed to be rezoned or by the owners of record of twenty (20) percent or more of the total area, excepting public streets and ways, which is located within the notification area described in 26-102, the ordinance adopting such amendment shall not be passed except by at least a 3/4 majority vote of all the members of the Governing Body. Immediately upon receiving the filing of such a protest petition the City Clerk shall notify the Zoning Administrator of such petition.

26-106. Limitations on Successive Applications. Provisions for a limitation on successive applications to the Planning Commission shall be as follows:

- a. No application for an amendment to these regulations including the zoning map shall be accepted by the Planning Commission if an application for the same amendment has been denied by the Planning Commission within the preceding twelve (12) months. The withdrawal of an application after it has been advertised for public hearing shall constitute a denial of the application just as if the public hearing had been held and concluded. For good cause shown by the applicant the Governing Body may waive the twelve (12) month requirements.
- b. Irrespective of the preceding subsection, an application for a rehearing may be accepted by the Planning Commission if in the judgment of the Planning Commission substantial justification is given. All such applications for a rehearing must be submitted to the secretary at least fifteen (15) days in advance of the next regularly scheduled meeting of the Planning Commission following the denial of the application. If the Planning Commission at such meeting determines that there has been substantial change or justification for a rehearing, the item will be advertised and a public hearing held at the next regular scheduled meeting of the Planning Commission.

26-107. Posting of Sign. An applicant for a rezoning or for a Conditional Use Permit may be required by the Zoning Administrator to place a sign upon the lot, tract or parcel of land for which the application was filed. Said sign shall be furnished by the Zoning Administrator to the applicant and the applicant shall display the sign as instructed by the Zoning Administrator. Failure to comply with this requirement shall not deprive the Planning Commission of its jurisdiction or affect any decision but may be due cause for the Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice.

26-108. Factors to be Considered in a Rezoning. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based, using the following guidelines:

- a. Whether the change in classification would be consistent with the intent and purpose of these regulations;
- b. The character and condition of the surrounding neighborhood and its effect on the proposed change;
- c. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
- d. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
- e. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
- f. The suitability of the applicant's property for the uses to which it has been restricted;
- g. The length of time the subject property has remained vacant or undeveloped as zoned;
- h. Whether adequate sewer and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
- i. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land

- available or not available for development;
- j. The recommendations of professional staff;
 - k. Whether the proposed amendment would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;
 - l. Whether the relative gain to the public health, safety , and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such reclassification; and,
 - m. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.

26-109. Factors to be Considered in an Application for a Conditional Use Permit.

- a. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are allowed as conditional uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.
- b. In approving a conditional use, the minimum requirements set out in these regulations for the underlying district must be met unless otherwise reduced by specific reference in the approval of the Governing Body. The requirements may be made more stringent if there are potentially injurious effects which may be anticipated upon other property or the neighborhood or which may be contrary to public health, safety or welfare.
- c. The Planning Commission may recommend approval of a conditional use that is expressly authorized to be permitted in a particular zoning district, and the Governing Body may approve such conditional use, using the following factors as guidelines:
 - 1. Whether approval of the conditional use would be consistent with the intent and purpose of these regulations;
 - 2. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;
 - 3. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;

4. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;
5. The length of time the subject property has remained vacant or undeveloped as zoned;
6. Whether the applicant's property is suitable for the proposed conditional use;
7. The recommendations of professional staff;
8. Whether the proposed conditional use would be in conformance to and further enhance the implementation of the City's Comprehensive Plan;
9. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed conditional use;
10. Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected;
11. For uses as solid waste disposal facilities, including sanitary landfills, construction and demolition landfills and transfer stations, whether the proposed conditional use is consistent with the adopted Solid Waste Management Plan of Cloud County, and amendments thereto; and
12. Such other factors as the Planning Commission may deem relevant from the facts and evidence presented in the application.

26-110. Traffic Studies. In the case of an application for rezoning of land or for a Conditional Use Permit for a use which may, in the opinion of the Planning Commission, substantially change traffic patterns, or create traffic congestion, the Planning Commission may require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study to be presented to the Planning Commission prior to its taking action on an application for rezoning or for a Conditional Use Permit. Such traffic study shall show that the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner, that vehicular ingress and egress from the site onto public streets will function in an orderly and efficient manner and that no undue burden will be placed upon the existing public street system. The results of the traffic study shall be used in determining the impact of the proposed rezoning or Conditional Use Permit and guide the development of a recommendation or decision regarding the same.

26-111. Platting. Approval of any rezoning may be conditioned upon approval of final platting of some or all the property to be rezoned.

SECTION 26-2 CONDITIONAL ZONING

26-201. The Planning Commission, subject to final approval by the Governing Body, or the Governing Body at its own initiative, in the process of rezoning land may limit the uses which are permitted in the district to which land is to be rezoned. Such a limitation shall be finally approved by the Governing Body only upon a finding that such limitation upon permitted uses is necessary to protect public health, safety or general welfare and is consistent with the purposes of these regulations.

SECTION 26-3 TABLE OF LESSER CHANGE

26-301. The following Table of Lesser Change is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Change designates which zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the most restrictive zoning district to the least restrictive zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of lesser change, as determined by the following Table of Lesser Change:

R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	High Density Residential District
C-1	Office and Service Business District
C-2	Restricted Commercial District
C-3	General Commercial District
C-4	Central Business District
I-1	Light Industrial
I-2	Heavy Industrial

SECTION 26-4 TIME OF PERFORMANCE IN REZONING

26-401.

- a. In cases where the Planning Commission and Governing Body deem that time of development is a critical factor in protecting the public welfare in a rezoning action, a time of performance may be included in the rezoning ordinance. Such time allowed for performance shall be reasonable. Such time shall be not less than five years from the effective date of the ordinance for all rezonings into districts in which single-family dwellings are allowed and not less than two years from the effective date of the resolution for all rezonings into districts in which single-family dwellings are not allowed. Such ordinance shall state what constitutes performance in each case.
- b. If at the termination of such stipulated period of time performance as required has not occurred, the Planning Commission may, within six (6) months thereafter, publish notice and conduct a public hearing for purposes of determining whether or not to change the zoning to a more restrictive district. The owner of the property in question shall be notified by certified mail of the proposed hearing not less than 20 days prior to the date of the hearing. Other notification and posting as required in this section shall be performed and all proceedings shall be the same as for other rezoning actions.
- c. It shall be the purpose of this hearing to hear the owner and other interested parties and make a determination as to which of the following actions would be recommended to the Governing Body.
 1. Extend the time of performance to a specified date,
 2. Remove the time of performance, or
 3. Rezone the land.
- d. After the hearing the Planning Commission shall forward its recommendations to the Governing Body. The Governing Body will then act to approve or disapprove the recommended action, consistent with these regulations.

SECTION 26-5 CONDITIONAL USE PERMITS

26-501. The application, notice, public hearing, and action procedures set forth in this Article shall be applicable to all applications for Conditional Use Permits submitted after the effective date of these regulations.

26-502. The Governing Body, when approving a Conditional Use Permit, shall specify the period of time for which the permit is valid or shall state that the term of the permit is not limited in time.

26-503. Upon approval of a Conditional Use Permit, the Zoning District Map shall be changed in the manner outlined in this Article.

26-504. The Planning Commission may revoke any Conditional Use Permit upon finding that (a) necessary building permits have not been issued within twelve (12) months of approval of the Conditional Use Permit or (b) if no building permit is required for the use allowed under the Conditional Use Permit, that the use so allowed has not been commenced within twelve (12) months of the approval of the Conditional Use Permit. No revocation shall occur once a valid building permit has been issued or conditional use commenced, regardless of the running of such twelve (12) month period.

26-505. In all instances where a use was allowed under a valid Conditional Use Permit properly issued prior to the effective date of these regulations, which such use would have been a nonconforming use under these regulations but for the issuance of such permit, the property owner shall continue to comply with the conditions set forth in that permit until the permit expires or is otherwise terminated in accordance with the provisions of these regulations.

SECTION 26-6 FEES FOR REZONINGS AND CONDITIONAL USE PERMITS

26-601. A fee, in the amount established by ordinance adopted by the Governing Body, shall accompany an application for rezoning or Conditional Use Permit which fee shall include the cost of publication notice.

26-602. No fee shall be required if the zoning change is initiated by the Planning Commission or the Governing Body. No fee shall be required if either the Planning Commission or Governing Body initiate an amendment to the zoning regulations that will not affect specific property.

SECTION 26-7 ADMINISTRATIVE VARIANCES

26-701.

- a. Except where variances are expressly prohibited by the Regulations, any requirement under these Regulations which may be varied from in accordance with the provisions of Section 25-3 may be submitted to the Zoning Administrator with a request for an administrative variance.
- b. Except as authorized in subsection c. of this Section, no application for an administrative variance may reduce the requirement sought to be varied from by an amount greater than ten percent (10%).
- c. The Zoning Administrator, as the floodplain Administrator, may approve, disapprove, modify and approve, or refer directly to the Board of Zoning Appeals, an application for a variance for wet flood proofing for accessory structures under 400 square feet in round floor area.

- d. The zoning administrator may approve, disapprove, modify and approve, or refer directly to the Board of Zoning Appeals, an application for an administrative variance.
- e. Any final decision by the Zoning Administrator on an application for an administrative variance may be appealed to the Board of Zoning Appeals.

ARTICLE 27

SIGN REGULATIONS

Sections:

- 27-1 Purpose**
- 27-2 Licenses, Bonds, Permits and Inspections**
- 27-3 General Regulations**
- 27-4 Exemptions**
- 27-5 Removal and Repair**
- 27-6 Obstruction to Doors, Windows or Fire Escapes**
- 27-7 Traffic Hazards**
- 27-8 Spotlights or Floodlights on Signs Over Public Property**
- 27-9 Wind Pressure Requirements**
- 27-10 Light Reflection**
- 27-11 Illuminated Signs**
- 27-12 Prohibited Signs**
- 27-13 Use of Plastics**
- 27-14 Method of Measurement**
- 27-15 Pole Signs**
- 27-16 Roof Signs**
- 27-17 Projecting Signs**
- 27-18 Walls Signs**
- 27-19 Billboards**
- 27-20 Temporary Signs**
- 27-21 Political Signs**
- 27-22 Changeable Copy Signs**
- 27-23 Signs Permitted in the A-L, R-1, R-2 and R-3 Districts**
- 27-24 Signs Permitted in the C-1 District**
- 27-25 Signs Permitted in the C-2 and C-3 Districts**
- 27-26 Signs Permitted in the C-4 District**
- 27-27 Signs Permitted in the I-1 and I-2 Districts**
- 27-28 Signs Permitted in the MP and MHS Districts**
- 27-29 Discontinuance of Signs on Public Property**
- 27-30 Definitions**

SECTION 27-1 PURPOSE

27-101. The purpose of this Article is to regulate the size and use of signs, billboards and other advertising devices; to prohibit or restrict signs, billboards and other advertising devices in districts where commercial and industrial activities are prohibited; and to control their location, size, number

and type in districts where the same are permitted. It is the further purpose of this Article to permit only those signs which are essential for the reasonable conduct of business and industry and to prevent needless clutter from the use of an unreasonable number, location, size or illumination of signs.

27-102. Any sign, billboard or other device which shall direct attention to any object, project, place, activity, person, institution, organization or business erected, placed upon, or attached thereto any structure or land shall conform to the construction, design, location and additional requirements of this Article.

SECTION 27-2 LICENSES, BONDS, PERMITS AND INSPECTIONS

27-201. All signs regulated by this Article shall be erected, installed and placed upon the property by a sign contractor, licensed by the City, except for those signs which are installed by the owner of the property. No sign shall be erected until a valid sign permit has been issued by the Zoning Administrator.

- a. **License.** Any person or firm desiring to erect signs shall make application for a license on forms provided by the Zoning Administrator. The applicant shall provide all information requested.
- b. **Bond.** Before issuance of a sign contractors license may be made, the applicant shall submit a surety bond in the amount of \$5,000 approved by the Zoning Administrator, conditioned that the principal will comply with all provisions of these regulations relating to sign construction and installation, and further conditioned that the City, or any person that may be injured or damaged by the principal ' s failure to comply with such regulations, may sue on such bond to recover damages. A surety shall give notice in writing of bond cancellation to the Zoning Administrator. Cancellation shall take effect ten (10) days after receipt of such notice; however, such surety shall remain liable for any injury or damage incurred prior to the effective date of such cancellation. In case of such cancellation, the principal shall be required to file another bond conforming with the requirements of this Article prior to performing any work.
- c. **Issuance and Renewal.** Upon receipt of an application in proper form, the payment of the fee, the bond as required, the Zoning Administrator shall issue a license pursuant to the provisions of these regulations. The license for a sign contractor shall be an annual license; it and the bond shall expire on December 31 following its issuance. The license shall be renewable each year upon payment of the prescribed license fee as set forth in the fee ordinance and submission of the required bond.
- d. **Permit and Fee.** To obtain permits for erecting a sign, the applicant shall first

furnish to the Zoning Administrator all pertinent data on forms or as required by the Zoning Administrator prior to commencing work. Each sign shall require a separate permit and fee. The fee amount for any license or permit required by the Article shall be as set forth in the fee ordinance adopted by the Governing Body.

- e. **Inspection.** An inspection shall be requested by the sign contractor for the Zoning Administrator to inspect signs upon completion of installation.

SECTION 27-3 GENERAL REGULATIONS

27-301.

- a. All signs erected under the provisions of this Article shall comply with the construction requirements and other structural regulations of these regulations. No sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a sign permit.
- b. In all districts where canopies or marquees projecting over public property may be erected, signs may be suspended from such canopy or marquee, provided that an application accompanied by detailed plans shall be submitted to and approved by the Zoning Administrator before erection of the sign. Prior to approving such application, the Zoning Administrator must find that said sign conforms to the following requirements:
 - 1. The sign projects no more than six (6) feet from the facade of a structure located on this property line, or where the structure is set back from the property line, the sign projects no more than six (6) feet over a public way.
 - 2. The sign shall have minimum clearance no less than eight (8) feet above the level of the public or private way beneath it.
 - 3. The sign conforms with the district requirements restricting square footage and number of signs.
- c. In all districts where awnings projecting over public property may be erected, signage may be permitted upon such awning, provided that an application accompanied by detailed plans shall be submitted to and approved by the Zoning Administrator. The Zoning Administrator must find that the proposed signage conforms with the following requirements:
 - 1. Signage is restricted to the name, function or logo of the business.
 - 2. The signage conforms with the district regulations restricting square footage

and numbers of signs in the area.

3. Signage is limited to the front surface of the awning.
 4. The signage is an integral part of the design of the awning or is painted or sewn onto such an awning.
 5. Signs may also be suspended from fixed awnings provided that they project no more than six (6) feet over the public way, are at least eight (8) feet above the public way and conform with the district regulations restricting square footage and numbers of signs, and that such sign is essential for reasonable conduct of the business.
- d. In all districts where mansard roofs projecting over public property may be erected, signs may be erected upon such mansard, provided that an application accompanied by detailed plans shall be submitted to and approved by the Zoning Administrator. The Zoning Administrator must find that the sign conforms with the following requirements:
1. The sign does not project beyond the leading edge of the mansard.
 2. The sign must be at least twenty-four (24) inches above the bottom of the mansard.
 3. The sign is not more than twelve (12) inches in thickness.
 4. The sign does not project from the mansard more than the thickness of the sign.
 5. The sign does not project above the top of the mansard.
 6. The sign is not more than four (4) feet in height.
 7. The sign conforms with the district requirements restricting square footage and number of signs.
- e. Wall or facade signs shall not project more than eight (8) inches over public property.
- f. A sign located within three (3) feet of a driveway intersection or parking area, or within fifteen (15) feet of a street or an alley, shall have a minimum clearance no less than eight (8) feet above curb level.
- g. Business or advertising signs located in or within fifty (50) feet of a residential zoned district shall be affixed to or be a part of the structure of a building.

- h. Signs located on property within Kansas Department of Transportation Corridor Management area must comply with all applicable regulations of Kansas Department of Transportation.

SECTION 27-4 EXEMPTIONS

27-401. The provisions of this Article, including the requirement of permits, shall not apply to the following signs: provided, however, that such signs shall be subject to the provisions of Section 27-5 of this Article. Signs exempted by this section shall not be included as part of the calculation of maximum square footage of signs for the property upon which exempt signs are located.

- a. Real estate signs not exceeding four (4) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are located.
- b. Signs painted upon the windows of a building or structure; provided that if said signs have raised border, letters, characters, decoration or lighting appliances, they shall be subject to these regulations and any other city ordinance regulating signs.
- c. Professional name plates not exceeding one (1) square foot area.
- d. Signs denoting the architect, contractor, engineer, lender or owner, when placed upon work under construction and not exceeding a total of thirty-two (32) square feet in area.
- e. Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible material.
- f. Traffic or other municipal signs, legal notices, railroad crossing signs, danger and such temporary or emergency signs as may be approved by the Governing Body.
- g. Political signs except as regulated by Section 27-21 of this Article.
- h. Banners, flags, pennants or other representation used to direct attention to a commercial or industrial area, provided that plans indicating size, type, location and duration are presented by an organized group of businesses or a civic organization and approved by the Site Plan Review Committee.
- i. Enter and exit signs not exceeding six (6) square feet in area. Any such sign which includes a company or business logo, name or similar description shall not qualify as an exempt sign.
- j. Drive through restaurant menu boards not exceeding twenty (20) square feet in area or eight (8) feet in height.

SECTION 27-5 REMOVAL AND REPAIR

27-501.

- a. Any sign which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent or person having beneficial use of the building or structure or land upon which the sign is located within forty-five (45) days.
- b. Any sign which becomes dilapidated, out of order, out of level, decayed, corroded, rotten or unsafe shall be repaired or removed.
- c. In the event of failure of the owner or person having control of signs as specified in this section to comply with a notice from the City to remove or repair said sign, the sign may be removed by the City at the expense of the owner or persons having control of the sign, or of the owner of the property upon which such sign is located. The cost of removing such sign shall be levied against the lot or tract of land upon which sign is located in the manner provided by law for assessment and levy of other special taxes.

SECTION 27-6 OBSTRUCTION TO DOORS, WINDOW OR FIRE ESCAPES

27-601. No sign shall be erected or maintained so as to prevent free ingress to or egress from any door, window or fire escape.

SECTION 27-7 TRAFFIC HAZARDS

27-701. No sign regulated by these regulations shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision. No sign regulated by these regulations shall be erected at any location where by reason of the position, shape or color, it may interfere with or obstruct the view of, or be confused with, any authorized traffic sign, signal or device. No sign regulated by these regulations shall be erected if it makes use of the words "stop", "look", "drive-in", "danger", or other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.

SECTION 27-8 SPOTLIGHTS OR FLOODLIGHTS ON SIGNS OVER PUBLIC PROPERTY

27-801. It shall be unlawful for any person to maintain any sign which extends over public property which is wholly or partially illuminated by floodlights or spotlights.

SECTION 27-9 WIND PRESSURE REQUIREMENTS

27-901. Unless otherwise specified in these regulations, all signs shall be designed and constructed to withstand a wind pressure of not less than forty (40) pounds per square foot of area.

SECTION 27-10 LIGHT REFLECTION

27-1001. Lights shall be permitted on ground signs, roof signs, wall signs and billboards; provided that the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign so as to prevent glare upon the street or adjacent properties.

SECTION 27-11 ILLUMINATED SIGNS

27-1101. All illuminated signs shall be subject to the provisions of the City' s electrical code.

SECTION 27-12 PROHIBITED SIGNS

27-1201. The following signs are prohibited in all zoning districts:

- a. Portable signs, being any signs not permanently attached to a structure or the ground, except when meeting all conditions for and considered as a temporary sign.
- b. Swinging signs.
- c. No sign shall be erected, placed, maintained or supported upon the street, alley, sidewalk or other public property.
- d. Changeable copy or flashing signs on a licensed motor vehicle or trailer.
- e. Any sign attached, mounted, placed or painted on any unlicensed motor vehicle or trailer.

SECTION 27-13 USE OF PLASTICS

27-1301. Combustible plastics may be used in the construction of letters, decoration and facings of

any sign; provided that such plastics when so used shall burn no faster than two and one-half (2.5) inches per minute in six one hundredths (0.06) inches thickness, when tested in accordance with A.S.T.M. Standard Method Test for Flammability of Plastics over Five One-Hundredths Inches Thickness.

SECTION 27-14 METHOD OF MEASUREMENT

27-1401. In all cases the size, dimensions, elevation and projection of signs erected, located or suspended under the provisions of these regulation shall be ascertained as follows:

- a. The size and dimension by measuring from edge to edge thereof, including ornamentation.
- b. The projection over public property by measuring from the lot line to the outer edge thereof, including ornamentation.
- c. The elevation by measuring from the highest ground level to the lowest edge thereof, including ornamentation.
- d. The height by measuring from the average grade of the lot to the upper edge of the sign, including ornamentation.
- e. The number per frontage by determining which street the face of the sign is most visible from. Pole signs with two faces shall count as one sign.
- f. A sign consisting of individual letter to spell a word or name shall be considered as a single sign and each letter shall be measured individually to computer size and area.

SECTION 27-15 POLE SIGNS

27-1501. The following regulations shall apply to pole signs:

- a. All pole signs shall be constructed of noncombustible material, except as follows:
 1. Approved plastics may be used as provided by Section 27-13.
 2. Temporary signs less than ten (10) feet in height and located at least two (2) feet from any building, property line or other sign may be constructed of combustible material.

3. Combustible structural trim may be used on all signs.
- b. All letters, figures, characters and representations in cut-out or irregular form maintained in conjunction with, attached to or superimposed on any sign shall be safely and securely built or attached to the sign structure.
- c. Pole signs shall have an open space not less than two (2) feet between the base line of said sign and the highest pole level. The open space may be filled with a decorative lattice work of noncombustible material which does not close off more than one-half (0.5) of any square foot of such open space.
- d. No pole sign shall extend beyond the property line.
- e. All pole signs shall be adequately supported and braced and guyed.
- f. All pole signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, free and clear of all obnoxious substances, rubbish and weeds.

SECTION 27-16 ROOF SIGNS

27-1601. The following regulations shall apply to roof signs:

- a. Every roof sign, including the supports and braces thereof, shall be constructed entirely of noncombustible materials; provided that combustible structural trim may be used.
- b. No roof sign over four (4) feet in height shall be erected or maintained with the face thereof nearer than five (5) feet to the outside wall toward which the sign faces.
- c. All roof signs shall have a space at least two (2) feet in height between the base of the sign and the roof level, and shall have at least five (5) feet clearance between the vertical supports.
- d. Every roof sign shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces.

SECTION 27-17 PROJECTING SIGNS

27-1701. Projecting signs may be erected subject to the following conditions and requirements:

- a. For the purpose of this Article, signs affixed to or suspended from canopies or marquees shall be considered as projecting signs.
- b. All projecting signs shall be constructed of noncombustible material; provided that approved plastics, as provided for by Section 27-13, and combustible structural trim, may be used thereon.
- c. All letters, figures, characters and representations in cut-out or irregular form, maintained in conjunction with, attached or superimposed on any sign shall be safely and securely built or attached to the sign structure.
- d. No projecting sign shall be erected closer to the property of another person than the distance the sign project from its support.
- e. All projecting signs exceeding fifteen (15) square feet in single face area shall be constructed entirely of metal or material of similar strength properties.
- f. No projecting sign shall be maintained less than eight (8) feet above the highest ground level over which it is erected.
- g. Every projecting sign shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces.

SECTION 27-18 WALL SIGNS

27-1801. Wall signs may be erected subject to the following conditions and requirements:

- a. All wall signs shall be constructed of noncombustible material; provided that approved plastics, as provided for by Section 27-13, and combustible structural trim, may be used thereon, provided wall signs may be of combustible material when the wall to which they are attached is or can be of combustible material.
- b. No wall sign shall be wholly or partially cover any wall opening, and it shall not project beyond the ends or top of the wall to which it is attached.
- c. No wall sign shall be attached to a wall at a height of less than eight (8) feet above the sidewalk or highest ground level adjacent to such sign, and shall not project more than eight (8) inches over public property unless such sign projects no more than four (4) inches over public property and is at least three (3) feet above the sidewalk or highest ground level adjacent

- d. No wall sign shall be erected so as to prevent free ingress to or egress from any door, window or fire escape.
- e. All wall signs shall be safely and securely attached to the building wall.

SECTION 27-19 BILLBOARDS

27-1901. Billboards may be erected subject to the following conditions and regulations:

- a. No billboard shall be erected, altered, constructed, reconstructed or moved until application and plans have been filed with and approved by the Zoning Administrator by issuance of a written permit.
- b. No billboard constructed entirely of combustible materials shall be erected to a height exceeding fourteen (14) feet above ground level, provided that, when facing and supports are constructed of noncombustible materials (except that the battens, ornamental moldings and decorative latticework may be of combustible materials), said billboard may be erected to a height not exceeding thirty (30) feet above ground level in any location where billboards are permitted by these regulations.
- c. Billboards shall not be located closer than fifty (50) feet from any property line.
- d. The owner, lessee or manager of a billboard, and the owner of the land on which it is located, shall maintain and keep the ground area around the sign clean, sanitary, inoffensive and free and clean of weeds and noxious substances.
- e. No billboard shall be located within five (5) feet of a building, unless attached to the building.
- f. Billboards shall have all support posts set in concrete or be supported by other means providing similar strength and support.

SECTION 27-20 TEMPORARY SIGNS

27-2001. Temporary signs may be erected subject to the following conditions and regulations:

- a. Permits are obtained and fees are paid as required by Section 27-2.
- b. Such signs shall be limited to four (4) per year for each business location.

- c. All temporary sign permits expire fifteen (15) days from date of issuance.
- d. No temporary sign, except on approval by the Governing Body, shall extend over or into any street, alley, sidewalk or other public thoroughfare. It shall not obstruct any wall opening. Aerial floodlights or spotlights shall not illuminate adjacent property or vehicles or cause a hazard to aircraft.
- e. All temporary signs shall be securely fastened to the ground or supporting structure in a manner approved by the Zoning Administrator.
- f. All electrical cords to such sign shall be located so as not to expose them to physical damage. No such electrical cord shall be laid upon any sidewalk, driveway or parking lot. All such wiring shall be subject to the electrical code of the City.
- g. All such signs shall be subject to Section 27-6, "Obstruction to doors, windows, or fire escapes", and Section 27-7, "Traffic hazards".

SECTION 27-21 POLITICAL SIGNS

27-2101. Political signs may be erected subject to the following conditions and requirements:

- a. Such signs shall not exceed thirty-two (32) square feet in area.
- b. Such signs shall not be located on public property, including street right-of-way.
- c. Any sign deemed to be a traffic hazard or a dangerous structure by the Zoning Administrator shall be removed within twenty-four (24) hours after notification of such condition is received by the property owner from the Zoning Administrator.
- d. All political signs shall be removed within five (5) days after the election to which they apply.

This section is not intended to restrict signs which may be erected under other provisions of this Article.

SECTION 27-22 CHANGEABLE COPY SIGNS

27-2201. Changeable copy signs located in zoning districts which allow only business signs may also advertise events or activities of noncommercial nature.

SECTION 27-23 SIGNS PERMITTED IN THE "A-L", "R-1", "R-2" and "R-3" DISTRICTS

27-2301. Only the following signs are permitted in the "A-L", "R-1", "R-2" and "R-3" districts.

- a. Signs for home occupations must be unilluminated, fixed flat against the home, under the eave of the home, and no more than two (2) signs with a total square footage that shall not exceed:
 1. Four (4) square feet in area in R-1 districts.
 2. Six (6) square feet in area in R-2 districts.
 3. Twelve (12) square feet in area in R-3 districts.
 4. Twelve (12) square feet in area in A-1 districts.
- b. Unilluminated "For Sale" and "For Rent" signs provided:
 1. No more than one (1) such sign permitted per lot.
 2. No sign shall exceed four (4) square feet in area.
 3. Such signs shall not be located in street or alley right-of-way and must be at least five (5) feet from any property line.
 4. Sign shall be securely anchored and not exceed six (6) feet in total height.
- c. Identification signs for apartment complexes and churches provided:
 1. No more than one (1) sign not exceeding thirty-two (32) square feet in area for each street frontage.
 2. No signs shall be located neither within eight (8) feet of a side property line nor within five (5) feet of a front property line.
 3. No sign shall exceed eight (8) feet in overall height.
 4. Signs may be affixed flat against a wall of the structure provided they do not project above the roof level.
- d. Temporary signs, not exceeding one hundred (100) square feet in area, identifying subdivisions or other development areas conforming with the location requirements in item (c) above may be permitted by the Zoning Administrator, provided that such signs are removed when the last lot is sold or development completed.
- e. Permanent signs identifying subdivisions or other developments not exceeding eight (8) feet in height or thirty-two (32) square feet in area.

SECTION 27-24 SIGNS PERMITTED IN THE C-1 DISTRICT

27-2401. Only the following signs are permitted in the C-1 district:

- a. All signs as set forth in 27-2301 a., b., d. and e.
- b. All nonresidential uses shall be permitted one (1) sign for each establishment for each facade which fronts onto a public street and one (1) sign for each paved alley, which sign shall not exceed in total area two (2) times the lineal feet of frontage of the structure to which it is attached, and which sign shall either be a monument sign or shall be affixed flat against the facade and shall not project above the average roof level of said structure.

SECTION 27-25 SIGNS PERMITTED IN THE C-2 AND C-3 ZONING DISTRICTS

27-2501. Only the following business signs are permitted in the C-2 and C-3 districts:

- a. “For Rent” or “For Sale” signs as set forth in 27-2301 a., b., d. and e.
- b. There shall be no more than two (2) signs permitted for each business for each side fronting a public street and one (1) sign per paved alley, with the total area of all signs not to exceed two (2) times the lineal front footage of the lot. Each side fronting a street or alley shall be considered separately.
- c. No more than one (1) pole sign shall be permitted for each business establishment.
- d. No sign shall project over public property, except existing structures which are located within twelve (12) inches of the front property line may have one (1) projecting sign which projects no more than twenty-four (24) inches over public property.
- e. Wall signs shall not project more than four (4) feet above the wall of the structure to which they are attached.
- f. A roof sign shall not exceed one hundred fifty (150) square feet in area or extend more than ten (10) feet above the roof level to which it is attached.
- g. Pole signs in the C-2 and C-3 districts shall not exceed a height of thirty (30) feet measured from the average grade of the lot; provided that when a lot in a C-3 district fronts on a designated federal highway and the location of the area is more than two hundred fifty (250) feet from a residentially zoned district, the total height of the sign may be forty (40) feet.
- h. In a unified shopping center in single ownership or control, one (1) additional sign

may be erected to identify the center. The sign may be affixed to a structure or be a pole sign. The sign shall not display more than the name and location of the center. If a pole sign, the height shall not exceed the allowable height of pole signs for the district in which it is located, and the bottom edge of the sign shall be at least eight (8) feet above the ground level at the sign.

- i. Monument signs shall not exceed five (5) feet above the ground level at the sign.

SECTION 27-26 SIGNS PERMITTED IN THE C-4 DISTRICT

27-2601. Only the following business or advertising signs may be permitted in the C-4 district:

- a. No more than two (2) signs shall be permitted for each business establishment for each facade which fronts onto a public street and one (1) per paved alley.
- b. No more than one (1) projecting sign will be allowed for each facade which fronts onto a public street, provided that the amount of projection over public property shall not exceed twenty (20) inches.
- c. No more than one (1) pole sign shall be permitted for each business establishment. Pole signs shall be located so that no part of the sign projects over public property. They shall not extend more than thirty (30) feet above the average grade of the lot.
- d. Wall or projecting signs shall not extend more than four (4) feet above the wall of the structure to which they are attached.
- e. Monument signs shall not exceed five (5) feet above the ground level at the sign.
- f. The total surface area of all signs serving each facade shall not exceed two (2) times the lineal feet of frontage of the lot. Each frontage onto a public street or alley shall be considered separately.

SECTION 27-27 SIGNS PERMITTED IN THE I-1 AND I-2 DISTRICTS

27-2701. Only the following advertising or business signs shall be permitted in the I-1 and I-2 districts:

- a. No more than two (2) signs shall be permitted for each establishment for each facade which fronts onto a public street and one (1) per paved alley.
- b. A sign shall not project over public property; provided that structures which are located on or within twelve (12) inches of the front property line may have one (1) projecting sign which projects no more than twenty-four (24) inches over public property.
- c. Pole signs shall be located so that no part of the sign extends over public property.

They shall not extend more than thirty (30) feet above the average grade of the lot.

- d. Wall signs shall not project more than four (4) feet above the wall at the structure to which they are attached.
- e. A roof sign shall not exceed three hundred (300) square feet in surface area, and its highest point shall not extend more than twenty (20) feet above the roof level of the structure.
- f. Monument signs shall not exceed five (5) feet in height above the ground level at the sign, and the sign face shall not exceed fifty (50) square feet in area per face in the I-1 District and shall not exceed 100 square feet in area per face in the I-2 District.
- g. The total surface of all signs serving each facade shall not exceed three (3) times the lineal feet of frontage of the lot. Each facade which fronts a public street or alley shall be considered separately.
- h. In addition to the signs listed in 27-2701 subsections a. through g., billboards are allowed in the I-1 and I-2 districts subject to the following regulations:
 - 1. Billboards shall conform to the provisions applying to billboards in Section 27-19.
 - 2. Billboards shall not exceed thirty (30) feet in height above the average lot grade.
 - 3. Billboards shall not exceed one thousand (1,000) square feet in single face area, provided that when said billboard is erected within three hundred (300) feet of another billboard, neither shall have a face greater than five hundred (500) square feet.
 - 4. Billboards shall not be located closer than fifty (50) feet from any property line.
- i. A billboard erected on a roof shall be considered as a roof sign and shall be subject to the regulations in this district applying to roof signs.

SECTION 27-28 SIGNS PERMITTED IN THE MP AND MHS DISTRICTS

27-2801. Only the following signs are permitted in the MP and MHS districts: One sign identifying the mobile home park, providing such sign shall not exceed twenty (20) square feet in surface area and shall not exceed eight (8) feet in height above the ground level.

SECTION 27-29 DISCONTINUANCE OF SIGNS ON PUBLIC PROPERTY

27-2901. Signs, bulletin boards and billboards located on or above public property at the time of the passage of this Article, except those specifically permitted herein or by the provision of any regulation of the City, shall be discontinued and removed within one (1) year after the effective date hereof. This section shall not apply to signs belonging to public bodies and approved by the Governing Body, or signs authorized by law.

SECTION 27-30 DEFINITIONS

27-3001. As used in this Article and elsewhere in the laws of the City, unless the context otherwise indicates, the terms used herein shall be defined as follows:

Advertising Sign. Shall mean any sign which directs attention to any goods, merchandise, property, business service, entertainment or amusement conducted, produced, bought, sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.

Billboard. Shall mean and include off-premises sign owned by a person, corporation or other entity that engages in the business of selling the advertising space on that sign.

Business Sign. Shall mean a sign which directs attention to a business or profession conducted or to products, services or entertainment sold or offered upon the premises where such sign is located or to which it is affixed. A "For Sale" sign or a "For Rent" sign relating to the property on which it is displayed shall be deemed a business sign.

Erect. Shall mean to build, place, construct, attach, hang, suspend, alter, relocate or affix.

Facing or Surface. Shall mean the surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

Flashing Sign. Shall mean any illuminated sign on which artificial lighting is alternately on and off or is not constant in intensity and color at all times.

Incombustible Material. Shall mean any material which will not ignite at or below a temperature of one thousand two hundred (1,200) degrees Fahrenheit and which will not continue to burn or glow at that temperature.

Monument sign. A free-standing sign having a solid appearance and a low profile, normally consisting of a face and base. A monument sign may be constructed with stone, concrete, metal, wood, brick or other materials consistent with the building the sign is representing.

Pole Sign. Shall mean any sign not attached to a building, other than a billboard, erected upon and supported by the ground and affixed to the ground in a permanent manner.

Projecting Sign. Shall mean any sign, other than a wall sign, suspended from or supported by a structure or building, and projecting out therefrom.

Projection. Shall mean the distance by which a sign extends over public property.

Revolving Sign. Shall mean any sign or portion thereof which is in motion and does not remain in a constant position.

Roof Sign. Shall mean any sign erected, constructed and maintained upon or over the roof of any building with the principal support on the roof structure.

Sign. Shall mean any sign, billboard or other device which shall display any letter, work, model, banner, flag, pennant, insignia, device, or representation used as, or which directs attention to, an object, project, place, activity, person, institution, organization or business, but shall not include any display of an official notice, flag, pennant, emblem or insignia of any nation, or groups of nations, or any state, city or other political unit.

Structural Trim. Shall mean the moldings, battens, cappings and nailing strips which are attached to the sign structure.

Temporary Sign. Shall mean any sign, banner, pennant, special flag, balloon or other air or gas filled devices, or other attention-attracting devices intended for short-term usage.

Vehicular Sign. Shall mean any sign attached to, mounted on, placed on, or painted on a licensed motor vehicle or trailer, designating the name, type, product, address or activity of a business.

Wall Sign. Shall include all flat signs of solid face construction which are placed against a building or structure and attached to the exterior front, rear or side wall of any building or other structure.

ARTICLE 28

SITE PLANS

Sections:

- 28-1 Intent**
- 28-2 Applicability**
- 28-3 Authority**
- 28-4 Filing Fee**
- 28-5 Submission Requirements**
- 28-6 Standard of Review**

SECTION 28-1 INTENT

28-101.

- a. The very nature of land development creates potential for traffic congestion, overcrowding, adverse visual environmental impacts, and health problems. Also, the City strives to achieve the goal of promoting growth in Concordia, while stabilizing the established residential patterns of the area. The City seeks to ensure that any location that accommodates intense urban use be subject to Site Plan Review by the Planning Commission in accordance with this Article. Site Plan Review helps ensure that the meaning and intent of these zoning regulations are fully complied with.
- b. Site Plan Review regulates the development of structures and sites in a manner that considers the following concerns:
 - 1. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances, including, for example, noise, smoke, fumes, dust, odor, glare and storm water runoff;
 - 2. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
 - 3. The adequacy of waste disposal methods and protection from pollution of surface or groundwater;
 - 4. The protection of historic and natural environmental features of the site under review, and those of adjacent areas; and

5. The stability of the built environment, particularly residential neighborhoods, by promoting urban development that is compatible with clearly identified natural resources.

SECTION 28-2 APPLICABILITY

28-201.

- a. The Zoning Administrator may require that any applications for building permits for multifamily (other than duplexes, triplexes and fourplexes), commercial and industrial be subject to site plan review in accordance with these regulations, and for redevelopments which enlarge the size of the original structure by more than fifty percent (50%) in the case of a renovation or alteration. A site plan should be required upon the Zoning Administrator's determination that development may impact traffic, parking, stormwater runoff, or create other impacts upon public health, safety or welfare. Developments shall be encouraged to implement the objectives of the adopted City of Concordia Future Land Use Plan to foster compatibility among land uses in the City. Site plan reviews shall be submitted to the Planning Commission for final approval.
- b. Prior to application, a pre-application conference shall be held between the applicant and city staff to discuss the site review requirement and other site or application issues specific to the proposed development or redevelopment. The applicant should submit preliminary plans for initial review and comment at this time. The pre-application conference is also an opportunity for the applicant to have the site plan review process fully explained by city staff, and for raising any questions as to the applicability of that process, or any other requirement of these regulations, to the proposed development or redevelopment.
- c. Following application submittal, site plan reviews shall be performed by city staff, including but not limited to the Zoning Administrator, the Director of Streets, Utilities, Police Chief, Fire Chief, and the City Engineer. Following review, comments will be compiled by the Zoning Administrator in the form of a recommendation, which shall be submitted to the Planning Commission for consideration and action.
- d. The Planning Commission shall perform its review at its next regularly scheduled meeting for which the item may be scheduled and shall adjourn and reconvene as is determined necessary.
- e. The applicant may appeal a site plan review determination to the City Commission for approval in the event that an applicant alleges that there is an error in any order, requirement, decision or determination made by the Planning Commission in the enforcement of site plan review. The request for review by the City Commission shall be accompanied by a complete description of error(s) alleged. An alleged error may relate to any of the following: (1) the

Planning Commission's incorrect belief as to any relevant fact pertaining to the application or proposed development; (2) its incorrect interpretation of the requirements of these regulations; (3) its incorrect application of these regulations to the application; or (4) its failure to comply with the procedures of these regulations, to the detriment of the applicant.

Section 3. Section 28-5, Submission Requirements, of Article 28, Site Plans, is hereby amended to read as follows:

SECTION 28-3 AUTHORITY

28-301. Building permits shall not be issued for any use of land or proposed construction on a lot in the zoning districts in which site plan review is applicable, unless site plan review approval has been granted.

SECTION 28-4 FILING FEE

28-401. A filing fee shall be charged and collected from the applicant in an amount as established by the City Commission by ordinance. The site plan shall not be accepted until a completed site plan application has been submitted and the filing fee paid by the applicant.

SECTION 28-5 SUBMISSION REQUIREMENTS

28-501.

- a. The site plan shall include the following data, details, and supporting plans which are found relevant to the proposal. The applicant shall make notations explaining the reasons for any omissions.
- b. Site plans shall be prepared by a registered professional engineer, architect, land surveyor or landscape architect at a scale of one (1) inch equals 20 feet, on standard 24" x 36" sheets, with one copy on 8 1/2" x 11". Ten (10) copies of the site plan shall be submitted for review. Items required for submission include:
 1. Name of the project, address, boundaries, date, north arrow and scale of the plan.
 2. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
 3. Name and address of all owners of record of abutting parcels.
 4. All existing lot lines, easements and rights-of-way. Include area in acres or square feet, abutting land uses and structures.

5. The location and use of all existing and proposed structures within the development. Include all dimensions of height and floor area, show all exterior entrances and all anticipated future additions and alterations, side views of structure, elevations of structure, and proposed building materials. For developments in the C-4 Central Business District, indicate design details to make new construction compatible with existing structures.
6. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs and fences. Location, type and screening details for all waste disposal containers shall also be drawn.
7. The Zoning Administrator may require location, height, intensity and bulb type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods proposed to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, materials, and design of all proposed signage.
9. The Zoning Administrator may require a landscape plan showing all existing open space, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, flood plains and drainage retention areas.
10. The location of all present and proposed utility systems including:
 - (a) sanitary sewerage system;
 - (b) water supply system;
 - (c) telephone, telecommunication, cable and electrical systems; and
 - (d) storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, hydrants, manholes and drainage swells.
11. Plans to prevent: pollution of surface water or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table and flooding of other properties, as applicable.
12. Existing and proposed topography shown at not more than two-foot contour intervals. All elevations shall refer to the United States Geodetic Survey (USGS) datum. If any portion of the parcel is within the 100-year flood plain, the area shall be shown, with base flood elevations and the developer shall present plans for meeting Federal Emergency Management Agency (FEMA) requirements.

13. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site.

The Director of Streets or City Engineer may require a detailed traffic study for mixed use and multi-tenant developments, or for developments in heavy traffic areas to include:

- (a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - (b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
 - (c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities, existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall also be given.
15. For new construction or alterations to any existing structure, a table containing the following information must be included:
 - (a) Area of structure to be used for a particular use, such as retail operation, office, storage, etc.;
 - (b) Maximum number of employees;
 - (c) Maximum seating capacity, where applicable;
 - (d) Number of parking spaces existing and required for the intended use; and
 - (e) A landscape plan for improving large areas of paved parking with appropriate landscaping may be required.
- c. Development Standards. Site plans for new construction or alterations to any existing structure, other than residential uses when located in the R-1 or R-2 zoning districts, shall include design detail which meets the following minimum development standards:
1. Dumpster Enclosure and Improvements:
 - (a) Exterior refuse shall be kept in an enclosed area large enough to contain one week's

production of refuse and shall be contained in a refuse bin equipped with a lid.

(b) The enclosure should be shielded on three sides by a wall or decorative fence and positioned in such a manner to shield the refuse bins from sight of any public thoroughfare or adjoining property. When decorative fence is used the corner post should be made of steel pipe with a four inch (4") diameter and filled with concrete.

(c) The number and location of the refuse bins shall be located on the site plans prior to approval and the capacity of each refuse bin shall be noted on the plans.

2. Form and proportion of building consistent or compatible with the scale, form and proportion of existing development in the immediate area. In evaluating the site plan for such consistency and compatibility the Zoning Administrator shall consider factors such as the following:

(a) The use of unusual shapes, color and other characteristics that cause new buildings to call excessive attention to themselves and create disharmony.

(b) The rhythm of structural mass to voids, such as windows and glass doors, of a front façade that relates favorably to the rhythms established in adjacent buildings.

(c) Overlay long horizontal facades (walls) that are articulated with variations in the building plane and parapet height, materials and colors, entrance canopies, landscaping and other design or site plan features.

(d) Architectural design that creates visual interest through the use of different textures, complementary colors, shadow lines and contrasting shapes.

SECTION 28-6 STANDARD OF REVIEW

28-601. The recommendations of the Zoning Administrator shall be based on the following standards:

a. The extent to which the proposal conforms to this Article and these regulations.

- b. The extent to which the development would be compatible with the surrounding area.
- c. The extent to which the proposal conforms to the provisions of the City's subdivision regulations and/or Comprehensive Plan.
- d. The extent to which the proposal conforms to the customary engineering standards used in the City.
- e. The extent to which the location of streets, paths, walkways, and driveways are located so as to enhance safety and minimize any adverse traffic impact on the surrounding area.

ARTICLE 29

ENFORCEMENT, VIOLATION AND PENALTY

Sections:

- 29-1 Enforcement**
- 29-2 Interpretation and Conflict**
- 29-3 Validity**
- 29-4 Repeal of Existing Regulations and Accrued Rights and Liabilities**
- 29-5 Penalties**
- 29-6 Effective Date**

SECTION 29-1 ENFORCEMENT

29-101. It shall be the duty of the Zoning Administrator to enforce these regulations. Appeals from decisions of the Zoning Administrator shall be made to the Board of Zoning Appeals as provided in Article 25.

SECTION 29-2 INTERPRETATION AND CONFLICT

29-201. In interpreting and applying the provisions of these zoning regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these zoning regulations to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties. Provided, however, that where these zoning regulations impose a greater restriction upon the use of structures or premises or upon height of structures, or require larger open spaces, lots areas, setbacks and so forth than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provisions of these zoning regulations shall govern.

SECTION 29-3 VALIDITY

29-301. Should any section, clause or provision of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

SECTION 29-4 REPEAL OF EXISTING REGULATIONS AND ACCRUED RIGHTS AND LIABILITIES

29-401. The adoption of these regulations repeals the existing zoning regulations of the City of Concordia, Kansas.

29-402. Despite the repeal of regulations existing at the time of adoption of these regulations, nothing contained in these regulations shall affect any rights accrued or liabilities incurred under any previously existing regulations.

SECTION 29-5 PENALTIES

29-501. Any violation of any provision of these zoning regulations shall be deemed to be a municipal offense and punishable by a fine of not to exceed \$500. Each day's violation shall constitute a separate offense.

29-502. The City Commission shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these zoning regulations, and to abate nuisances maintained in violation thereof.

29-503. Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the City Commission, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such structure or land.

SECTION 29-6 EFFECTIVE DATE

29-601. These zoning regulations as adopted by the City Commission shall become and are in full force immediately upon passage and publication in accordance with state law.